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Constitution of 1879 as Amended

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Compiled by
BION M. GREGORY
Legislative Counsel

CHAPTER 525

An act to repeal Article 6 (commencing with Section 4545) of Chapter 2 of Division 4.5 of, and Section 4606 of, the Welfare and Institutions Code, and to repeal Section 3 of Chapter 785 of the Statutes of 1983, Section 23 of Chapter 1183 of the Statutes of 1981, and Section 8 of Chapter 1077 of the Statutes of 1980, relating to the Legislative Analyst.

[Approved by Governor September 8, 1985 Filed with Secretary of State September 9, 1985]

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

SECTION 1. Article 6 (commencing with Section 4545) of Chapter 2 of Division 4.5 of the Welfare and Institutions Code is repealed.

SEC. 2. Section 4606 of the Welfare and Institutions Code is repealed.

SEC. 3. Section 3 of Chapter 785 of the Statutes of 1983 is repealed.

SEC. 4. Section 23 of Chapter 1183 of the Statutes of 1981 is repealed.

SEC. 5. Section 8 of Chapter 1077 of the Statutes of 1980 is repealed.

CHAPTER 526

An act to add Section 1670 to the Vehicle Code, relating to anatomical gifts.

[Approved by Governor September 8, 1985. Filed with Secretary of State September 9, 1985]

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

SECTION 1. Section 1670 is added to the Vehicle Code, to read:

1670. (a) The department shall make available, in the public area of each office of the department where applications for driver's licenses are received, space for a sign or notice briefly describing the Uniform Anatomical Gift Act and informing the public that the necessary forms for making an anatomical gift are available.

(b) The department shall make available to the public in its offices a pamphlet or brochure providing more detailed information on the making of anatomical gifts.

(c) The signs, notices, pamphlets, and brochures specified in subdivisions (a) and (b) shall be provided without cost to the department by responsible private parties associated with the anatomical gift program.

CHAPTER 527

An act relating to insurance.

[Approved by Governor September 8, 1985 Filed with Secretary of State September 9, 1985.]

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

SECTION 1. Notwithstanding Section 10503.1 of the Government Code, the Auditor General shall conduct an independent study to determine the effectiveness of the administration by the Department of Insurance of those provisions of Article 6.5 (commencing with Section 790) of Chapter 1 of Part 2 of Division 1 of the Insurance Code relating to unfair claims practices and the late payment of claims by insurers. The study shall determine the magnitude of the problem of late payments to insureds and plan members under group policies of disability insurance, self-insured employee welfare benefit plans, and nonprofit hospital service plan contracts.

The study shall be reported to each house of the Legislature on or before June 1, 1986.

CHAPTER 528

An act to amend Section 232 of the Civil Code, and to amend Section 350 of the Welfare and Institutions Code, relating to minors.

[Approved by Governor September 8, 1985 Filed with Secretary of State September 9, 1985.]

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

SECTION 1. Section 232 of the Civil Code is amended to read:

232. (a) An action may be brought for the purpose of having any child under the age of 18 years declared free from the custody and control of either or both of his or her parents when the child comes within any of the following descriptions:

(1) The child has been left without provision for the child's

identification by his or her parent or parents or by others or has been left by both of his or her parents or his or her sole parent in the care and custody of another for a period of six months or by one parent in the care and custody of the other parent for a period of one year without any provision for the child's support, or without communication from the parent or parents, with the intent on the part of the parent or parents to abandon the child. The failure to provide identification, failure to provide support, or failure to communicate shall be presumptive evidence of the intent to abandon. If the parent or parents have made only token efforts to support or communicate with the child, the court may declare the child abandoned by the parent or parents. In those cases in which the child has been left without provision for the child's identification and the whereabouts of the parents are unknown, a petition may be filed after the 120th day following the discovery of the child and citation by publication may be commenced. The petition may not be heard until after the 180th day following the discovery of the child.

(2) Who has been neglected or cruelly treated by either or both parents, if the child has been a dependent child of the juvenile court under any subdivision of Section 300 of the Welfare and Institutions Code and the parent or parents have been deprived of the child's custody for one year prior to the filing of a petition pursuant to this section. Physical custody by the parent or parents for insubstantial periods of time shall not serve to interrupt the running of the one-year period.

(3) Whose parent or parents suffer a disability because of the habitual use of alcohol, or any of the controlled substances specified in Schedules I to V, inclusive, of Division 10 (commencing with Section 11000) of the Health and Safety Code, except when these controlled substances are used as part of a medically prescribed plan, or are morally depraved, if the child has been a dependent child of the juvenile court, and the parent or parents have been deprived of the child's custody continuously for one year immediately prior to the filing of a petition pursuant to this section. As used in this subdivision, "disability" means any physical or mental incapacity which renders the parent or parents unable to adequately care for and control the child. Physical custody by the parent or parents for insubstantial periods of time shall not interrupt the running of the one-year period.

(4) Whose parent or parents are convicted of a felony, if the facts of the crime of which the parent or parents were convicted are of a nature so as to prove the unfitness of the parent or parents to have the future custody and control of the child.

(5) Whose parent or parents have been declared by a court of competent jurisdiction, wherever situated, to be developmentally disabled or mentally ill, if, in the state or country in which the parent or parents reside or are hospitalized, the Director of Mental Health or the Director of Developmental Services, or their equivalent, if any, and the superintendent of the hospital of which, if any, the

parent or parents are inmates or patients, certify that the parent or parents so declared to be developmentally disabled or mentally ill will not be capable of supporting or controlling the child in a proper manner.

(6) Whose parent or parents are mentally disabled and are likely to remain so in the foreseeable future. As used in this subdivision, "mentally disabled" means that a parent or parents suffer any mental incapacity or disorder which renders the parent or parents unable to adequately care for and control the child. The evidence of any two experts, each of whom shall be either a physician and surgeon, certified either by the American Board of Psychiatry and Neurology or under Section 6750 of the Welfare and Institutions Code, or a licensed psychologist who has a doctoral degree in psychology and at least five years of postgraduate experience in the diagnosis and treatment of emotional and mental disorders, shall be required to support a finding under this subdivision. If, however, the parent or parents reside in another state or in a foreign country, the evidence required by this subdivision may be supplied by the affidavits of two experts, each of whom shall be either a physician and surgeon who is a resident of that state or foreign country, and who has been certified by a medical organization or society of that state or foreign country to practice psychiatric or neurological medicine, or by a licensed psychologist who has a doctoral degree in psychology and at least five years of postgraduate experience in the diagnosis and treatment of emotional and mental disorders and who is licensed in that state or authorized to practice in that country. If the rights of any parent are sought to be terminated pursuant to this subdivision, and the parent has no attorney, the court shall appoint an attorney for the parent pursuant to Section 237.5, whether or not a request for the appointment is made by the parent.

(7) Who has been in out-of-home placement under the supervision of the juvenile court, the county welfare department, or other public or private licensed child-placing agency for a one-year period, if the court finds that return of the child to the child's parent or parents would be detrimental to the child and that the parent or parents have failed during that period, and are likely to fail in the future, to maintain an adequate parental relationship with the child, which includes providing both a home and care and control for the child.

If the minor has been adjudged a dependent child of the juvenile court and placed in out-of-home placement pursuant to Section 361 of the Welfare and Institutions Code, the one-year period shall be calculated from the date of the dispositional hearing at which the child was placed in out-of-home placement pursuant to that section. If the minor is in placement under the supervision of a county welfare department or other public or private licensed child-placing agency, pursuant to a voluntary placement, as described in Section 16507.4 of the Welfare and Institutions Code, the one-year period shall be calculated from the date the minor entered out-of-home

placement.

The court shall make a determination that reasonable services have been provided or offered to the parents which were designed to aid the parents to overcome the problems which led to the deprivation or continued loss of custody and that despite the availability of these services, return of the child to the parents would be detrimental to the child. The probation officer or social worker currently assigned to the case of the child shall appear at the termination proceedings.

If the minor has been adjudged to be a dependent child of the court pursuant to Section 300 of the Welfare and Institutions Code, the court shall review and consider the contents of the juvenile court file in determining if the services offered were reasonable under the circumstances.

Trial placement of the child in the physical custody of the parent or visitation of the child with the parent during the one-year period, when the trial placement or visitation does not result in permanent placement of the child with the parent, shall not serve to interrupt the running of the one-year period.

(8) A minor who has been found to be a dependent child of the court, pursuant to subdivision (d) of Section 300 of the Welfare and Institutions Code, as a result of severe physical abuse by a parent inflicted when the minor was under three years of age, who has been removed from the physical custody of the parent because of severe physical abuse by that parent pursuant to paragraph (5) of subdivision (b) of Section 361 of the Welfare and Institutions Code, and concerning whom the juvenile court has found that attempts at reunification with his or her parent or parents would be detrimental, pursuant to subdivision (c) of Section 366 of the Welfare and Institutions Code. In cases brought under this subdivision, the finding of the juvenile court that the minor was a victim of severe physical abuse, if final, shall be binding on the court. For purposes of this section, "severe physical abuse" means any of the following:

(A) Any single act of abuse which causes physical trauma of sufficient severity that, if left untreated, it would cause permanent physical disfigurement, permanent physical disability, or death.

(B) Any single act of sexual abuse which causes significant bleeding, deep bruising, or significant external or internal swelling.

(C) Repeated acts of physical abuse, each of which causes bleeding, deep bruising, significant external or internal swelling, bone fracture, or unconsciousness.

The provisions of this paragraph only shall be applicable to free a child from the custody and control of a parent who has inflicted severe physical abuse on that child.

(b) At all termination proceedings, the court shall consider the wishes of the child and shall act in the best interests of the child.

The testimony of the minor may be taken in chambers and outside the presence of the minor's parent or parents if the minor's parent or parents are represented by counsel, the counsel is present, and

any of the following circumstances exist:

(1) The court determines that testimony in chambers is necessary to insure truthful testimony.

(2) The minor is likely to be intimidated by a formal courtroom setting.

(3) The minor is afraid to testify in front of his or her parent or parents.

After testimony in chambers, the parent or parents of the minor may elect to have the court reporter read back the testimony or have the testimony summarized by counsel for the parent or parents.

The testimony of a minor also may be taken in chambers and outside the presence of the guardian or guardians of a minor under the circumstances specified in this subdivision.

(c) A finding pursuant to this section shall be supported by clear and convincing evidence.

(d) Section 5158 shall not apply to proceedings pursuant to this section.

SEC. 2. Section 350 of the Welfare and Institutions Code is amended to read:

350. (a) The judge of the juvenile court shall control all proceedings during the hearings with a view to the expeditious and effective ascertainment of the jurisdictional facts and the ascertainment of all information relative to the present condition and future welfare of the person upon whose behalf the petition is brought. Except where there is a contested issue of fact or law, the proceedings shall be conducted in an informal nonadversary atmosphere with a view to obtaining the maximum cooperation of the minor upon whose behalf the petition is brought and all persons interested in his or her welfare with such provisions as the court may make for the disposition and care of the minor.

(f) The testimony of a minor may be taken in chambers and outside the presence of the minor's parent or parents, if the minor's parent or parents are represented by counsel, the counsel is present and any of the following circumstances exist:

(1) The court determines that testimony in chambers is necessary to insure truthful testimony.

(2) The minor is likely to be intimidated by a formal courtroom setting.

(3) The minor is afraid to testify in front of his or her parent or parents.

After testimony in chambers, the parent or parents of the minor may elect to have the court reporter read back the testimony or have the testimony summarized by counsel for the parent or parents.

The testimony of a minor also may be taken in chambers and outside the presence of the guardian or guardians of a minor under the circumstances specified in this subdivision.

CHAPTER 529

An act to amend Sections 37100.5 and 50077 of the Government Code, and to add Section 7282 to the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 8, 1985. Filed with Secretary of State September 9, 1985]

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

SECTION 1. Section 37100.5 of the Government Code is amended to read:

37100.5. Except as provided in Section 7282 of the Revenue and Taxation Code, the legislative body of any city may levy any tax which may be levied by any charter city, subject to the voters' approval pursuant to Article XIII A of the Constitution of California.

SEC. 2. Section 50077 of the Government Code is amended to read:

50077. (a) Except as provided in Section 7282 of the Revenue and Taxation Code, the legislative body of any city, county, or district may, following notice and public hearing, propose by ordinance or resolution the adoption of a special tax. The ordinance or resolution shall include the type of tax and rate of tax to be levied, the method of collection, and the date upon which an election shall be held to approve the levy of the tax. The proposition shall be submitted to the voters of the city, county, or district, or a portion thereof, and, upon the approval of two-thirds of the votes cast by voters voting upon the proposition, the city, county, or district may levy the tax.

(b) The legislative body of a city, or district, may provide for the collection of the special tax in the same manner and subject to the same penalty as, or with, other charges and taxes fixed and collected by the city, or district, or, by agreement with the county, by the county on behalf of the city, or district. If the special taxes are collected by the county on behalf of the city, or district, the county may deduct its reasonable costs incurred for the service before remittal of the balance to the city.

(c) The legislative body of a local agency which is conducting proceedings for the incorporation of a city, the formation of a district, a change of organization, a reorganization, a change of organization of a city, or a municipal reorganization, may propose by ordinance or resolution the adoption of a special tax in accordance with the provisions of subdivision (a) on behalf of an affected city or district.

(d) As used in this section "district" means an agency of the state, formed pursuant to general law or special act, for the local performance of governmental or proprietary functions within limited boundaries.

SEC. 3. Section 7282 is added to the Revenue and Taxation Code, to read:

7282. Notwithstanding any other provision of law, no city, county, or city and county may levy a tax on the privilege of occupying a campsite in a unit of the state park system.

CHAPTER 530

An act to amend Section 44012 of the Health and Safety Code, and to add Section 99314.4 to the Public Utilities Code, relating to transportation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 8, 1985. Filed with Secretary of State September 9, 1985.]

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

SECTION 1. Section 44012 of the Health and Safety Code is amended to read:

44012. The test at the test stations shall include all of the following:

(a) A determination that emission control devices and systems required by state and federal law are installed and functioning correctly in accordance with the test procedure adopted pursuant to subdivision (b) of Section 44013.

(b) For other than diesel-powered vehicles, a test of the vehicle's exhaust emissions of hydrocarbons, carbon monoxide, and carbon dioxide in an idle mode or loaded mode in accordance with the procedure prescribed by the department. Testing for nitrogen oxide emissions shall be included at the option of the district requesting the inspection program.

(c) For diesel-powered vehicles when the department determines that the inclusion of those vehicles is technologically and economically feasible, a test of the vehicle's exhaust emissions in an idle mode or loaded mode in accordance with the procedure prescribed by the department. The test may include testing of emissions of any or all of the pollutants specified in subdivision (b) and, upon the adoption of applicable standards, measurement of emissions of smoke or particulates, or both.

(d) A determination as to whether the vehicle complies with the emission standards for that vehicle's class and model-year as prescribed by the department.

SEC. 2. Section 99314.4 is added to the Public Utilities Code, to read:

99314.4. An operator in an urbanized area having a population of less than 200,000 persons may elect to participate in the funding exchange program authorized by this section. An operator electing to participate in the funding exchange program shall give notice to the director and shall indicate the amount of funds which it wants

allocated for the funding exchange program.

From funds that would otherwise be allocated to an operator pursuant to Sections 99313.3, 99314, and 99314.3, an amount so designated by the participating operator shall be allocated to the department for transfer pursuant to an agreement between the department and the State of Arizona whereby California can receive federal mass transportation funds originally apportioned to the State of Arizona.

The department shall allocate the federal mass transportation funds so received to each participating operator in the same proportion as the operator contributed to the funding exchange program. Funds so received shall be used only for the purposes authorized by this chapter and are subject to all statutes and rules and regulations applicable to funds allocated pursuant to Sections 99313 and 99314.

The Legislature finds and declares that the exchange of state funds for federal mass transportation funds authorized by this section will result in a net increase in the total amount of funds to be available to the participating operators.

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 testing of exhaust emissions of diesel-powered vehicles and to make additional federal mass transportation funds available for essential transit service in California's urbanized areas of less than 200,000 population as soon as possible, and thereby help reduce air pollution, it is necessary that this act take effect immediately.

CHAPTER 531

An act to amend Section 25402.1 of the Public Resources Code, relating to energy resources.

[Approved by Governor September 8, 1985 Filed with Secretary of State September 9, 1985]

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

SECTION 1. Section 25402.1 of the Public Resources Code is amended to read:

25402.1. In order to implement the requirements of subdivisions (a) and (b) of Section 25402, the commission shall do all of the following:

(a) Develop a public domain computer program which will enable contractors, builders, architects, engineers, and government officials to estimate the energy consumed by residential and

nonresidential buildings. The commission may charge a fee for the use of the program, which fee shall be based upon the actual cost of the program, including any computer costs.

(b) Establish a formal process for certification of compliance options for new products, materials, and calculation methods which provides for adequate technical and public review to ensure accurate, equitable, and timely evaluation of certification applications. Proponents filing applications for new products, materials, and calculation methods shall provide all information needed to evaluate the application that is required by the commission. The commission shall publish annually the results of its certification decisions and instructions to users and local building officials concerning requirements for showing compliance with the building standards for new products, materials, or calculation methods. The commission may charge and collect a reasonable fee from applicants to cover the costs under this subdivision. Any funds received by the commission for purposes of this subdivision shall be deposited in the Energy Resources Programs Account for appropriation by the Legislature in the annual Budget Bill.

(c) Include a prescriptive method of complying with the standards, including design aids such as a manual, sample calculations, and model structural designs.

(d) Certify, no later than 180 days after approval of the standards by the State Building Standards Commission, an energy conservation manual for use by designers, builders, and contractors of residential and nonresidential buildings. The manual shall be furnished upon request at a price sufficient to cover the costs of production and shall be distributed at no cost to all affected local agencies. The manual shall contain, but not be limited to, the following:

(1) The standards for energy conservation established by the commission.

(2) Forms, charts, tables, and other data to assist designers and builders in meeting the standards.

(3) Design suggestions for meeting or exceeding the standards.

(4) Any other information which the commission finds will assist persons in conforming to the standards.

(5) Instructions for use of the computer program for calculating energy consumption in residential and nonresidential buildings.

(6) The prescriptive method for use as an alternative to the computer program.

(e) The commission shall establish a continuing program of technical assistance to local building departments in the enforcement of subdivisions (a) and (b) of Section 25402 and this section. The program shall include the training of local officials in building technology and enforcement procedures related to energy conservation, and the development of complementary training programs conducted by local governments, educational institutions, and other public or private entities. The technical assistance program shall include the preparation and publication of forms and

procedures for local building departments in performing the review of building plans and specifications. The commission shall provide, on a contract basis, a review of building plans and specifications submitted by a local building department, and shall adopt a schedule of fees sufficient to repay the cost of those services.

(f) Subdivisions (a) and (b) of Section 25402 and this section, and the rules and regulations of the commission adopted pursuant thereto, shall be enforced by the building department of every city, county, or city and county.

(1) No building permit for any residential or nonresidential building shall be issued by a local building department, unless a review by the building department of the plans for the proposed residential or nonresidential building contains detailed energy system specifications and confirms that the building satisfies the minimum standards established pursuant to subdivision (a) or (b) of Section 25402 and this section applicable to the building.

(2) Where there is no local building department, the commission shall enforce subdivisions (a) and (b) of Section 25402 and this section.

(3) If a local building department fails to enforce subdivisions (a) and (b) of Section 25402 and this section or any other provision of this chapter or standard adopted pursuant thereto, the commission may provide enforcement after furnishing 10 days' written notice to the local building department.

(4) A city, county, or city and county may, by ordinance or resolution, prescribe a schedule of fees sufficient to pay the costs incurred in the enforcement of subdivisions (a) and (b) of Section 25402 and this section. The commission may establish a schedule of fees sufficient to pay the costs incurred by that enforcement.

(g) Subdivisions (a) and (b) of Section 25402 and this section shall apply only to new residential and nonresidential buildings on which actual site preparation and construction have not commenced prior to the effective date of rules and regulations adopted pursuant to those sections that are applicable to those buildings. Nothing in those sections shall prohibit either of the following:

(1) The enforcement of state or local energy conservation or energy insulation standards, adopted prior to the effective date of rules and regulations adopted pursuant to subdivisions (a) and (b) of Section 25402 and this section with regard to residential and nonresidential buildings on which actual site preparation and construction have commenced prior to that date.

(2) The enforcement of city or county energy conservation or energy insulation standards, whenever adopted, with regard to residential and nonresidential buildings on which actual site preparation and construction have not commenced prior to the effective date of rules and regulations adopted pursuant to subdivisions (a) and (b) of Section 25402 and this section, if the city or county files the basis of its determination that the standards are cost effective with the commission and the commission finds that the

standards will require the diminution of energy consumption levels permitted by the rules and regulations adopted pursuant to those sections. If, after two or more years after the filing with the commission of the determination that those standards are cost effective, there has been a substantial change in the factual circumstances affecting the determination, upon application by any interested party, the city or county shall update and file a new basis of its determination that the standards are cost effective. The determination that the standards are cost effective shall be adopted by the governing body of the city or county at a public meeting. If, at the meeting on the matter, the governing body determines that the standards are no longer cost effective, the standards shall, as of that date, be unenforceable and no building permit or other entitlement shall be denied based on the noncompliance with the standards.

(h) The commission may exempt from the requirements of this section and of any regulations adopted pursuant thereto any proposed building for which compliance would be impossible without substantial delays and increases in cost of construction, if the commission finds that substantial funds have been expended in good faith on planning, designing, architecture or engineering prior to the date of adoption of the regulations.

(i) If a dispute arises between an applicant for a building permit and the building department regarding interpretation of Section 25402 or the regulations adopted pursuant thereto, either party may submit the dispute to the commission for resolution. The commission's determination of the matter shall be binding on the parties.

(j) Nothing in Section 25130, 25131, or 25402, or in this section shall be construed to prevent enforcement of any regulation adopted pursuant to this chapter, or Chapter 11.5 (commencing with Section 19878) of Part 3 of Division 13 of the Health and Safety Code as they existed prior to September 16, 1977.

CHAPTER 532

An act to amend Section 24071 of the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor September 8, 1985. Filed with Secretary of State September 9, 1985.]

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

SECTION 1. Section 24071 of the Business and Professions Code is amended to read:

24071. The license of one spouse may be transferred to the other spouse when the application for transfer is made prior to the entry

of a final decree of divorce, and the license of a decedent, minor ward, incompetent person, conservatee, bankrupt person, person for whose estate a receiver is appointed, or assignor for the benefit of creditors may be transferred by or to the surviving partners of a deceased licensee, the executor, administrator, conservator or guardian of an estate of a licensee, the surviving spouse of a deceased licensee in the event that the deceased licensee leaves no estate to be administered, the trustee of a bankrupt estate of a licensee, a receiver of the estate of a licensee, or an assignee for the benefit of creditors of a licensee with the consent of the assignor, or a license may be transferred by or to a receiver appointed for a judgment debtor as provided by Section 708.630 of the Code of Civil Procedure, or a license may be transferred to a revocable living trust when the licensee is also the trustee, or a license may be transferred between partners where no new partner is being licensed, or a license may be transferred between corporations whose outstanding shares of stock are owned by the same natural persons, or a licensee may transfer upon compliance with Section 24073 any license to a corporation whose entire stock is owned by the licensee, or his spouse, or a license may be transferred from a corporation to a person who owns, or whose spouse owns, the entire stock of the corporation, and the fee for transfer of each license is fifty dollars ($50). The regular transfer fee provided in Section 24072 shall be due and payable upon the subsequent transfer of 25 percent of the stock in a corporation to which a license has been transferred by a licensee or his spouse pursuant to this section, except if such transfer of stock is from a parent to his child or grandchild, in which case the fee shall be one-half of the regular transfer fee. In no case shall a fee be charged for the transfer of an importer's license. All money collected from the fees provided for in this section shall be deposited directly in the General Fund in the State Treasury, rather than in the Alcohol Beverage Control Fund as provided in Section 25761.

CHAPTER 533

An act to amend Section 12022.1 of the Penal Code, relating to sentences.

[Approved by Governor September 8, 1985 Filed with Secretary of State September 9, 1985]

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

SECTION 1. Section 12022.1 of the Penal Code is amended to read:

12022.1. (a) For the purposes of this section only:

(1) "Primary offense" means a felony offense for which a person has been released from custody on bail or on his or her own

recognizance prior to the judgment becoming final, including the disposition of any appeal, or for which release on bail or his or her own recognizance has been revoked.

(2) "Secondary offense" means a felony offense alleged to have been committed while the person is released from custody for a primary offense.

(b) Any person arrested for a secondary offense which was alleged to have been committed while that person was released from custody on a primary offense shall be subject to a penalty enhancement of an additional two years in state prison which shall be served consecutive to any other term imposed by the court.

(c) The enhancement allegation provided in subdivision (b) shall be pleaded in the information or indictment which alleges the secondary offense and shall be proved as provided by law. The enhancement allegation may be pleaded in a complaint but need not be proved at the preliminary hearing for the secondary offense.

(d) Whenever there is a conviction for the secondary offense and the enhancement is proved, and the person is sentenced on the secondary offense prior to the conviction of the primary offense, the imposition of the enhancement shall be stayed pending imposition of the sentence for the primary offense. The stay shall be lifted by the court hearing the primary offense at the time of sentencing for that offense and shall be recorded in the abstract of judgment. If the person is acquitted of the primary offense the stay shall be permanent.

(e) If the person is convicted of a felony for the primary offense, is sentenced to state prison for the primary offense, and is convicted of a felony for the secondary offense, any state prison sentence for the secondary offense shall be consecutive to the primary sentence.

(f) If the person is convicted of a felony for the primary offense, is granted probation for the primary offense, and is convicted of a felony for the secondary offense, any state prison sentence for the secondary offense shall be enhanced as provided in subdivision (b).

(g) If the primary offense conviction is reversed on appeal, the enhancement shall be suspended pending retrial of that felony. Upon retrial and reconviction, the enhancement shall be reimposed. If the person is no longer in custody for the secondary offense upon reconviction of the primary offense, the court may, at its discretion, reimpose the enhancement and order him or her recommitted to custody.

CHAPTER 534

An act to amend Sections 25345, 25347, 25347.2, and 25395 of, and to add Section 25345.4 to, the Health and Safety Code, relating to hazardous waste, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 8, 1985. Filed with Secretary of State September 9, 1985.]

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

SECTION 1. 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 in this section. The board shall set the base tax rate upon the waste and material specified in Section 25342 in accordance with the following formula:

$$\text{Base tax rate} = \frac{(\$15{,}000{,}000 + R)}{(0.15W_1 + W_2 + 2W_3 + 0.01W_4)}$$

where:

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

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

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

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

(5) R is the amount of refunds made pursuant to paragraph (3) of subdivision (d) of Section 25345.4.

(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), as it read on January 1, 1984, 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 homogeneity 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, 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.

(h) The taxes assessed for the 1984 calendar year and due July 1, 1985, and the taxes assessed in all subsequent years, shall be determined pursuant to this section.

SEC. 2. Section 25345.4 is added to the Health and Safety Code, to read:

25345.4. (a) Notwithstanding any other provision of law, a person may apply to the board, pursuant to subdivision (d), for a refund for any tax assessed for the 1984 calendar year and paid during 1985, pursuant to Section 25345, if the tax is imposed upon

the disposal of any hazardous waste or extremely hazardous waste which was released in or onto land before September 25, 1981, and which is the subject of a voluntary removal or remedial action paid for by the owner of the land or the generator of that waste and conducted pursuant to a written plan approved by the department before July 10, 1984. The department may require the owner or generator to reimburse the department for the costs of any periodic site visits which are reasonably necessary to ensure compliance with the plan.

(b) This section does not apply if the original release of the hazardous waste or extremely hazardous waste was the result of willful or negligent misconduct by the responsible person.

(c) This section applies only to the determination of the taxes assessed for the 1984 calendar year.

(d) The board shall refund the tax paid in 1985 upon the hazardous waste or extremely hazardous waste disposed of pursuant to subdivision (a) from the following sources of funds:

(1) Any taxes collected pursuant to this article in 1985, from persons who did not submit an annual disposal report pursuant to Section 25342 on March 1, 1982, March 1, 1983, or March 1, 1984, for the waste disposed of by that person during the previous calendar year.

(2) If the funds specified in paragraph (1) are less than the amount of the refund for which the taxpayer may apply, the board shall pay the refund from any unencumbered balance in the Hazardous Substance Account on June 30, 1986.

(3) If the funds specified in paragraphs (1) and (2) are less than the amount of refund for which the taxpayer may apply, the taxpayer may apply to the board for the difference, and the board shall make the refund from the taxes collected pursuant to this article during 1986 and in any subsequent year. If the board makes a refund pursuant to this paragraph, the board shall set the base tax rate, as specified in subdivision (a) of Section 25345, to include the amount of the refund.

(e) Any refund made pursuant to this section shall not reduce the amount of any funds that would be otherwise available for expenditure from the Hazardous Substance Account pursuant to Sections 25351, 25352, or 25354.

SEC. 3. Section 25347 of the Health and Safety Code is amended to read:

25347. (a) In no event shall the total taxes collected in any one fiscal year pursuant to this chapter exceed fifteen million dollars ($15,000,000) plus the amount of refunds made pursuant to paragraph (3) of subdivision (d) of Section 25345.4. The calculation of the maximum tax to be assessed for the 1984 calendar year, and subsequent calendar years, shall be determined pursuant to this section.

(b) Notwithstanding any other provision of law, the board shall use the amount determined pursuant to subdivision (a) in setting

the base tax rate in Section 25345.

(c) This section does not prevent the board from collecting any taxes which are not paid when due, or from issuing any determination or redetermination pursuant to Sections 43201 and 43304 of the Revenue and Taxation Code. Any determination of taxes shall be at the tax rates established pursuant to Section 25345 of this code for the period for which the determination is issued.

SEC. 4. Section 25347.2 of the Health and Safety Code is amended to read:

25347.2. (a) "State account rebate" means the total taxes, interest, and penalties for any preceding calendar year which have been collected during the previous 12-month period, pursuant to Section 25345 and Part 22 (commencing with Section 43001) of Division 2 of the Revenue and Taxation Code, less the total of:

(1) Fifteen million dollars ($15,000,000) plus the amount of refunds made pursuant to paragraph (3) of subdivision (d) of Section 25345.4, or the amount appropriated for the current fiscal year by the Legislature for the purposes of this chapter, whichever is the lesser amount.

(2) The total amount of refunds of tax, interest, and penalties paid during the previous 12-month period.

(3) The total amount of claims for refund filed and pending, to the extent that these claims relate to tax, interest, and penalties collected during the previous 12-month period.

(b) "Previous 12-month period" means the period from March 1 of the preceding year to March 1 of the current year.

(c) On or before June 1 of each year, the board shall compute the amount of the state account rebate for the previous 12-month period. The state account rebate shall be credited or paid to each person who paid taxes for the preceding calendar year pursuant to Section 25345 and Part 22 (commencing with Section 43001) of Division 2 of the Revenue and Taxation Code on a pro rata basis in proportion to the amount of taxes, interest, and penalties paid by that person for the preceding year.

(d) The amount of any credit or payment for the state account rebate shall be accompanied by a brief explanation or statement of account and may be reflected in the notice of assessment for the current year.

(e) Notwithstanding Section 13340 of the Government Code, there is hereby continuously appropriated from the Hazardous Substance Account in the General Fund, to the board, sufficient funds to pay the state account rebates authorized by this section.

SEC. 5. Section 25395 of the Health and Safety Code is amended to read:

25395. (a) Except as provided in subdivisions (b) and (c), this chapter, including, but not limited to, the tax imposed by Section 25345, shall remain in effect only until July 1, 1991, and as of that date is repealed, unless a later enacted statute, which is enacted

before July 1, 1991, deletes or extends that date.

(b) On July 1, 1991, the Department of Finance shall submit a report to the Secretary of State which states whether the principal of, and interest on, the bonds sold pursuant to Article 7.5 (commencing with Section 25385) have been paid and the General Fund has been reimbursed for any and all amounts that were expended therefrom to pay the principal of, and interest on, those bonds. If the report states that the bonds have not been paid and the General Fund has not been reimbursed, then, notwithstanding subdivision (a), Article 1 (commencing with Section 25300), Article 2 (commencing with Section 25310), Article 3 (commencing with Section 25330), Article 4 (commencing with Section 25340), Article 6 (commencing with Section 25360), and Article 7.5 (commencing with Section 25385) shall not be repealed and shall remain in effect until the date specified in subdivision (c).

(c) If the articles specified in subdivision (b) remain in effect after July 1, 1991, pursuant to subdivision (b), on the date when the principal of, and interest on, the bonds sold pursuant to Article 7.5 (commencing with Section 25385) have been paid and the General Fund has been reimbursed for any and all amounts that were expended therefrom to pay the principal of, and interest on, those bonds, the Department of Finance shall submit a report to the Secretary of State containing that information. The articles specified in subdivision (b) shall be repealed on the date when that report is submitted.

(d) If the articles specified in subdivision (b) remain in effect after July 1, 1991, the committee, as defined in Section 25385.1, may determine the amount of the tax revenues to be collected annually pursuant to Section 25345, which amount may be less than, but shall not exceed, fifteen million dollars ($15,000,000) plus the amount of refunds made pursuant to paragraph (3) of subdivision (d) of Section 25345.4. The committee shall also inform the State Board of Equalization, on March 1 of each calendar year, of the amount of the tax revenues which will be collected for the previous calendar year.

SEC. 6. The Legislature hereby finds and declares that Section 2 of this act does not constitute a gift of public money, within the meaning of Section 6 of Article XVI of the California Constitution, as this act would fulfill the public purpose of encouraging the voluntary cleanup of hazardous substances. Section 25345.5 of the Health and Safety Code currently provides an exemption for the voluntary cleanup of hazardous waste disposed of after July 1, 1984, and this act would extend this existing incentive by recognizing efforts made during the first half of 1984.

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:

Due to the need to make this act applicable to the 1984 calendar year, and since the tax rate imposed by Section 25345 of the Health and Safety Code will be computed prior to the commencement of the 1985–86 fiscal year, it is necessary that this act take effect immediately.

CHAPTER 535

An act to add Section 12806.5 to the Vehicle Code, relating to drivers' licenses.

[Approved by Governor September 8, 1985 Filed with Secretary of State September 9, 1985.]

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

SECTION 1. Section 12806.5 is added to the Vehicle Code, to read:

12806.5. (a) The Department of the California Highway Patrol shall, by regulation and after consultation with the Department of Motor Vehicles, adopt procedures and guidelines which specify the circumstances which warrant the suspension or revocation of a schoolbus, school pupil activity, or youth busdriver certificate.

(b) The Department of Motor Vehicles may suspend or revoke a schoolbus, school pupil activity, or youth busdriver certificate only in accordance with the procedures and under the circumstances specified in the guidelines adopted by the Department of the California Highway Patrol pursuant to subdivision (a).

CHAPTER 536

An act to amend Section 60043 of, to add Sections 60329 and 60343 to, and to repeal Sections 60152 and 60156 of, the Water Code, relating to water replenishment districts.

[Approved by Governor September 8, 1985. Filed with Secretary of State September 9, 1985.]

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

SECTION 1. Section 60043 of the Water Code is amended to read:

60043. Whenever any act is required to be done or proceeding taken on or set for a particular day or day of the week in any month, the act may be done or proceeding set for and acted upon on a day of the month otherwise specified for a regular meeting of the board.

SEC. 2. Section 60152 of the Water Code is repealed.

SEC. 3. Section 60156 of the Water Code is repealed.

SEC. 4. Section 60329 is added to the Water Code, to read:

60329. The board, by action uniformly applicable as to any quarter, and adopted prior to the commencement of the quarter, may provide that there shall not be due or payable any quarterly installment of less than three dollars ($3) otherwise payable by a producer under Section 60327 with respect to production of groundwater from all water-producing facilities operated by the producer during the quarterly period.

SEC. 5. Section 60343 is added to the Water Code, to read:

60343. If another public entity, or public entities, or a watermaster, or watermasters, appointed in one or more court adjudications, or any combination of the foregoing (hereafter "other regulator or regulators") is monitoring by appropriate means the water production of substantially all water producers within the district, the board may, by resolution, indefinitely suspend the date for affixing a water-measuring device as referenced in Section 60342.

The suspension does not affect any requirements of any other regulator or regulators. The suspension may be revoked, and the date for affixing water measuring devices established, by further board resolution.

All resolutions adopted under this section shall be published in the district pursuant to Section 6006 of the Government Code. In the case of any revocation, the publication shall be completed not less than two months prior to the operative date of the revocation. In the case of any revocation, notice of the operative date shall be given by first-class mail, postage prepaid, to operators at any address of record within the district within the time required for publication, but no defect in or failure to mail the notice to any operator affects the operative date of the revocation.

CHAPTER 537

An act to add Section 60318 to the Water Code, relating to water replenishment districts.

[Approved by Governor September 8, 1985 Filed with Secretary of State September 9, 1985.]

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

SECTION 1. Section 60318 is added to the Water Code, to read:

60318. If the board determines by resolution that there is a problem of groundwater contamination that a proposed program will remedy or ameliorate, an operator may make extractions of groundwater to remedy or ameliorate that problem exempt from any replenishment assessment if the water is not applied to beneficial surface use, its extractions are made in compliance with all the terms

and conditions of the board resolution, and the board has determined in the resolution either of the following:

(a) The groundwater to be extracted is unusable and cannot be economically blended for use with other water.

(b) The proposed program involves extraction of usable water in the same quantity as will be returned to the underground without degradation of quality.

The resolution may provide those terms and conditions the board deems appropriate, including, but not limited to, restrictions on the quantity of extractions to be so exempted, limitations on time, periodic reviews, requirement of submission of test results from a board-approved laboratory, and any other relevant terms or conditions. Upon written notice to the operator involved, the board may rescind or modify its resolution. The rescission or modification of the resolution shall apply to groundwater extractions occurring more than 10 days after the rescission or modification. Notice of rescission or modification shall be either mailed first-class mail, postage prepaid, at least two weeks prior to the meeting of the board at which the rescission or modification will be made to the address of record of the operator or personally delivered two weeks prior to the meeting. All board determinations shall be final.

CHAPTER 538

An act to amend Sections 53317, 53321, and 53321.5 of, and to add Sections 53312.5 and 53314.9 to, the Government Code, relating to community facilities, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 9, 1985. Filed with Secretary of State September 9, 1985.]

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

SECTION 1. Section 53312.5 is added to the Government Code, to read:

53312.5. The local agency may take any actions or make any determinations which it determines are necessary or convenient to carry out the purposes of this chapter and which are not otherwise prohibited by law.

SEC. 2. Section 53314.9 is added to the Government Code, to read:

53314.9. (a) At any time either before or after the formation of the district, the legislative body may accept advances of funds from any source, including, but not limited to, private persons or private entities and may provide, by resolution, for the use of those funds for any authorized purpose, including, but not limited to, covering any cost incurred by the local agency in creating a district. The legislative

body may enter into an agreement, by resolution, with the person or entity advancing the funds, to repay all or a portion of the funds advanced, with or without interest, under both of the following conditions:

(1) The proposal to repay the funds is included both in the resolution of intention to establish a district adopted pursuant to Section 53321 and in the resolution of formation to establish the district adopted pursuant to Section 53325.1, or in the resolution of intention to alter the types of public facilities and services provided within an established district adopted pursuant to Section 53334.

(2) Any proposed special tax or change in a special tax is approved by the qualified electors of the district pursuant to this chapter. Any agreement shall specify that if the qualified electors of the district do not approve the proposed special tax or change in a special tax, the local agency shall return any funds which have not been committed for any authorized purpose by the time of the election to the person or entity advancing the funds.

(b) The agreement shall not constitute a debt or liability of the local agency.

SEC. 3. Section 53317 of the Government Code is amended to read:

53317. Unless the context otherwise requires, the definitions contained in this article shall govern the construction of this chapter.

(a) "Clerk" means the clerk of the legislative body of a local agency.

(b) "Community facilities district" means the district of land in which public facilities and authorized services are to be provided, and in which special taxes and charges may be levied pursuant to this chapter to pay for those facilities and services.

(c) "Cost" means the expense of constructing or purchasing a facility and of related land, rights of way, and easements, including incidental expenses, and the cost of providing services, including incidental expenses.

(d) "Debt" means any binding obligation to repay a sum of money, including obligations in the form of bonds, certificates of participation, long-term leases, loans from government agencies, or loans from banks, other financial institutions, private businesses, or individuals.

(e) "Incidental expense" includes all of the following:

(1) The cost of planning and designing facilities to be financed pursuant to this chapter, including the cost of environmental evaluations of those facilities.

(2) All costs associated with the creation of the district, issuance of bonds, determination of the amount of any taxes, collection of any taxes, or costs otherwise incurred in order to carry out the authorized purposes of the district.

(3) Any other expenses incidental to the construction, completion, and inspection of the authorized work.

(f) "Landowner" or "owner of land" means any person shown as

the owner of land on the last equalized assessment roll or otherwise known to be the owner of the land by the legislative body. The legislative body has no obligation to obtain other information as to the ownership of the land, and its determination of ownership shall be final and conclusive for the purposes of this chapter.

(g) "Legislative body" means the legislative body or governing board of any local agency.

(h) "Local agency" means any city or county, whether general law or chartered, special district, school district, joint powers entity created pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1, or any other municipal corporation or district.

(i) "Services" means the provision of police and fire protection services, recreation programs, the operation and maintenance of parks and parkways, and the provision of flood and storm protection services, including, but not limited to, the operation and maintenance of storm drainage systems. "Services" includes the performance by employees of functions, operations, maintenance, and repair activities.

SEC. 4. Section 53321 of the Government Code is amended to read:

53321. Proceedings for the establishment of a community facilities district shall be instituted by the adoption of a resolution of intention to establish the district which shall do all of the following:

(a) State that a community facilities district is proposed to be established under the terms of this chapter and describe the boundaries of the territory proposed for inclusion in the district.

(b) State the name proposed for the district in substantially the following form: "Community Facilities District No. _____."

(c) State the type or types of public facilities and services proposed to be financed by the district pursuant to this chapter. If the purchase of completed facilities or the incurring of incidental expenses is proposed, the resolution shall identify those facilities or expenses.

(d) State that, except where funds are otherwise available, a special tax sufficient to pay for all such facilities and services will be annually levied within such area. The resolution shall specify the rate and method of apportionment of the special tax in sufficient detail to allow each landowner or resident within the proposed district to estimate the annual amount that he or she will have to pay.

(e) Make a finding that the proposed facility is necessary to meet increased demands put upon the local agency as a result of the new development or rehabilitation.

(f) Fix a time and place for a public hearing on the establishment of the district which shall be not less than 30 or more than 60 days after the adoption of the resolution.

(g) Describe any adjustment in property taxation to pay prior indebtedness pursuant to Sections 53313.6 and 53313.7.

SEC. 5. Section 53321.5 of the Government Code is amended to read:

53321.5. At the time of the adoption of the resolution of intention to establish a community facilities district, the legislative body shall direct each of its officers who is or will be responsible for providing one or more of the proposed types of public facilities or services to be financed by the district, if it is established, to study the proposed district and, at or before the time of the hearing, file a report with the legislative body containing a brief description of the public facilities and services by type which will in his or her opinion be required to adequately meet the needs of the district and his or her estimate of the cost of providing those public facilities and services. If the purchase of completed facilities or the payment of incidental expenses is proposed, the legislative body shall direct its appropriate officer to estimate the fair and reasonable cost of those facilities or incidental expenses. All of those reports shall be made a part of the record of the hearing on the resolution of intention to establish the district.

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 will clarify procedures for the creation of community facilities districts and the purchase of facilities and the payment of incidental expenses by those districts.

CHAPTER 539

An act to add Sections 1046 and 1047 to the Evidence Code, and to amend Section 832.7 of the Penal Code, relating to discovery.

[Approved by Governor September 9, 1985. Filed with Secretary of State September 9, 1985]

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

SECTION 1. Section 1046 is added to the Evidence Code, to read:

1046. In any case, otherwise authorized by law, in which the party seeking disclosure is alleging excessive force by a peace officer in connection with the arrest of that party, the motion shall include a copy of the police report setting forth the circumstances under which the party was stopped and arrested.

SEC. 2. Section 1047 is added to the Evidence Code, to read:

1047. Records of peace officers, including supervisorial peace officers, who either were not present during the arrest or had no contact with the party seeking disclosure from the time of the arrest until the time of booking, shall not be subject to disclosure.

SEC. 3. Section 832.7 of the Penal Code is amended to read:

832.7. Peace officer personnel records and records maintained pursuant to Section 832.5, or information obtained from these

records, are confidential and shall not be disclosed in any criminal or civil proceeding except by discovery pursuant to Sections 1043 and 1046 of the Evidence Code. This section shall not apply to investigations or proceedings concerning the conduct of police officers or a police agency conducted by a grand jury or a district attorney's office.

CHAPTER 540

An act to amend Section 1203.1 of the Penal Code, relating to crimes.

[Approved by Governor September 9, 1985 Filed with Secretary of State September 9, 1985.]

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

SECTION 1. Section 1203.1 of the Penal Code, as amended by Section 4 of Chapter 980 of the Statutes of 1984, is amended to read:

1203.1. The court or judge thereof, in the order granting probation, may suspend the imposing, or the execution of the sentence and may direct that the suspension may continue for a period of time not exceeding the maximum possible term of the sentence, except as hereinafter set forth, and upon those terms and conditions as it shall determine. The court, or judge thereof, in the order granting probation and as a condition thereof may imprison the defendant in the county jail for a period not exceeding the maximum time fixed by law in the case; however, where the maximum possible term of the sentence is five years or less, then the period of suspension of imposition or execution of sentence may, in the discretion of the court, continue for not over five years; may fine the defendant in a sum not to exceed the maximum fine provided by law in the case; or may in connection with granting probation, impose either imprisonment in county jail, or fine, or both, or neither; shall provide for restitution in proper cases; and may require bonds for the faithful observance and performance of any or all of the conditions of probation.

The court shall consider whether the defendant as a condition of probation shall make restitution to the victim or the Restitution Fund. Any restitution payment received by a probation department in the form of cash or money order shall be forwarded to the victim within 30 days from the date the payment is received by the department. Any restitution payment received by a probation department in the form of a check or draft shall be forwarded to the victim within 45 days from the date the payment is received by the department, provided, that payment need not be forwarded to a victim until 180 days from the date the first such payment is received, if the restitution payments for that victim received by the probation

department total less than fifty dollars ($50). In cases where the court has ordered the defendant to pay restitution to multiple victims and where the administrative cost of disbursing restitution payments to multiple victims involves a significant cost, any restitution payment received by a probation department shall be forwarded to multiple victims when it is cost-effective to do so, but in no event shall restitution disbursements be delayed beyond 180 days from the date the payment is received by the probation department. In counties or cities and counties where road camps, farms, or other public work is available the court may place the probationer in such a road camp, farm, or other public work instead of in jail; Section 25359 of the Government Code shall apply to probation and the court shall have the same power to require adult probationers to work, as prisoners confined in the county jail are required to work, at public work. Each county board of supervisors may fix the scale of compensation of the adult probationers in that county. In all cases of probation the court may require as a condition of probation that the probationer go to work and earn money for the support of his or her dependents or to pay any fine imposed or reparation condition, to keep an account of his or her earnings, to report them to the probation officer and apply those earnings as directed by the court.

In all such cases if as a condition of probation a judge of the superior court sitting by authority of law elsewhere than at the county seat requires a convicted person to serve his or her sentence at intermittent periods the sentence may be served on the order of the judge at the city jail nearest to the place at which the court is sitting, and the cost of his or her maintenance shall be a county charge.

Upon conviction of any offense involving child abuse or neglect, the court may require, in addition to any or all of the above-mentioned terms of imprisonment, fine, and other reasonable conditions, that the defendant shall participate in counseling or education programs, or both, including, but not limited to, parent education or parenting programs operated by community colleges, school districts, other public agencies, or private agencies.

The court may impose and require any or all of the above-mentioned terms of imprisonment, fine, and conditions, and other reasonable conditions, as it may determine are fitting and proper to the end that justice may be done, that amends may be made to society for the breach of the law, for any injury done to any person resulting from that breach, and generally and specifically for the reformation and rehabilitation of the probationer, and that should the probationer violate any of the terms or conditions imposed by the court in the matter, it shall have authority to modify and change any and all such terms and conditions and to reimprison the probationer in the county jail within the limitations of the penalty of the public offense involved. Upon the defendant being released from the county jail under the terms of probation as

originally granted or any modification subsequently made, and in all cases where confinement in a county jail has not been a condition of the grant of probation, the court shall place the defendant or probationer in and under the charge of the probation officer of the court, for the period or term fixed for probation. However, upon the payment of any fine imposed and the fulfillment of all conditions of probation, probation shall cease at the end of the term of probation, or sooner, in the event of modification. In counties and cities and counties in which there are facilities for taking fingerprints, those of each probationer shall be taken and a record of them kept and preserved.

Notwithstanding any other provisions of law to the contrary, except as provided in Sections 13967 and 13967.5 of the Government Code and Sections 1202.4, 1203.04, 1463.16, paragraph (1) of subdivision (a) of Section 1463.18, and Section 1464, all fines collected by a county probation officer in any of the courts of this state, as a condition of the granting of probation, or as a part of the terms of probation, shall be paid into the county treasury and placed in the general fund, for the use and benefit of the county.

If the court orders restitution to be made to the victim, the board of supervisors may add a fee to cover the actual administrative cost of collecting restitution but not to exceed 2 percent of the total amount ordered to be paid. The fees shall be paid into the general fund of the county treasury for the use and benefit of the county.

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.

CHAPTER 541

An act to add Division 3 (commencing with Section 56000) to Title 5 of, to repeal Sections 56826, 56829, 56830, 56831, and 57088 of, to repeal Part 2 (commencing with Section 35000) of Division 2 of Title 4 of, Chapter 6.6 (commencing with Section 54773) of Part 1 of Division 2 of Title 5 of, and Division 1 (commencing with Section 56000) of Title 6 of, the Government Code, relating to local agencies, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 9, 1985 Filed with Secretary of State September 9, 1985.]

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

SECTION 1. Part 2 (commencing with Section 35000) of Division 2 of Title 4 of the Government Code is repealed.

SEC. 2. Chapter 6.6 (commencing with Section 54773) of Part 1 of Division 2 of Title 5 of the Government Code is repealed.

SEC. 3. Division 3 (commencing with Section 56000) is added to

Title 5 of the Government Code, to read:

DIVISION 3. CORTESE LOCAL GOVERNMENT REORGANIZATION ACT OF 1985

PART 1. GENERAL

CHAPTER 1. LEGISLATIVE FINDINGS AND DECLARATIONS

56000. This division shall be known and may be cited as the Cortese Local Government Reorganization Act of 1985.

56001. The Legislature finds and declares that it is the policy of the state to encourage orderly growth and development which are essential to the social, fiscal, and economic well-being of the state. The Legislature recognizes that the logical formation and determination of local agency boundaries is an important factor in promoting orderly development. Therefore, the Legislature further finds and declares that this policy should be effected by the logical formation and modification of the boundaries of local agencies.

The Legislature recognizes that urban population densities and intensive residential, commercial, and industrial development necessitate a broad spectrum and high level of community services and controls. The Legislature also recognizes that when areas become urbanized to the extent that they need the full range of community services, priorities are required to be established regarding the type and levels of services that the residents of an urban community need and desire; that community service priorities be established by weighing the total community service needs against the total financial resources available for securing community services; and that those community service priorities are required to reflect local circumstances, conditions, and limited financial resources. The Legislature finds and declares that a single governmental agency, rather than several limited purpose agencies, is in many cases better able to assess and be accountable for community service needs and financial resources and, therefore, is the best mechanism for establishing community service priorities.

CHAPTER 2. DEFINITIONS

56010. Unless the provision or context otherwise requires, the definitions contained in this chapter govern the construction of this division. The definition of a word applies to any of that word's variants.

56011. "Affected city" means any city which satifies either of the following conditions:

(a) It contains, or its sphere of influence contains, territory for which a change of organization is proposed or ordered either singularly or as part of a reorganization.

(b) It would contain the territory described in subdivision (a) as

a result of proceedings for a change of organization or reorganization taken pursuant to this division.

56012. "Affected county" means each county which contains, or would contain, any territory for which a change of organization or reorganization is proposed or ordered or which contains all or any part of a district for which a change of organization or reorganization is proposed or ordered with respect to territory outside that county.

56013. "Affected district" means a special district, as defined by Section 56036, which contains, or whose sphere of influence contains, any territory for which a reorganization or a change of organization is proposed or ordered.

56014. "Affected local agency" means any agency which contains, or would contain, or whose sphere of influence contains, any territory within any proposal or study to be reviewed by the commission.

56015. "Affected territory" means any territory for which a change of organization or reorganization is proposed or ordered.

56016. "Agricultural lands" means land used for the purpose of producing an agricultural commodity for commercial purposes.

56017. "Annexation" means the annexation, inclusion, attachment, or addition of territory to a city or district.

56018. "Benefit district" means a district, containing lands which are, or will be, benefited by their inclusion within the district, the owners of those lands being entitled, under state or federal statutes or the California Constitution or the United States Constitution, to notice by mail or personal service and hearing prior to the inclusion of the lands within the district.

56019. "Board of directors" means the legislative body or governing board of a district.

56020. "Board of supervisors" means the board of supervisors of a county.

56021. "Change of organization" means any of the following:

(a) A city incorporation.

(b) A district formation.

(c) An annexation to, or detachment from, a city or district.

(d) A disincorporation of a city.

(e) A district dissolution.

(f) A consolidation of cities or special districts.

(g) A merger or establishment of a subsidiary district.

56022. "Chief petitioners" means any persons designated in a petition for the purpose of receiving any notice authorized or required to be given to those persons.

56023. "City" means any chartered or general law city, including any city the name of which includes the word "town."

56024. "City council" means the city council or legislative body of a city.

56025. "City officer" means the mayor or a member of the city council.

56026. "Clerk" means the clerk or secretary of a county, city, or

district, or the clerk or secretary of the legislative body of a county, city, or district. Where the office of county clerk is separate from the office of the clerk of the board of supervisors, "clerk" means the clerk of the board of supervisors. Where the office of county clerk is separate from the office of the registrar of voters, "clerk" means the registrar of voters with respect to all duties pertaining to the conduct of elections and the county clerk with respect to all other duties.

56027. "Commission" means a local agency formation commission.

56028. "Commission proceedings" means proceedings which are taken by a commission pursuant to Part 3 (commencing with Section 56650).

56029. "Conducting authority" means the legislative body of an affected city, affected district, or affected county which is authorized by the commission to conduct proceedings for a change of organization or reorganization. Subject to compliance with any commission determination, the conducting authority for proceedings shall be determined as follows:

(a) A city whose boundaries would be changed as the result of a proposed annexation, detachment, or disincorporation shall be the conducting authority and proceedings for the annexation, detachment, or disincorporation shall be conducted by the city council of that city.

(b) A district whose boundaries would be changed as the result of a proposed annexation or detachment shall be the conducting authority and proceedings for the annexation or detachment shall be conducted by the legislative body of that district.

(c) The city council of the city with the largest population shall be the conducting authority and shall conduct proceedings for the consolidation of two or more cities.

(d) The board of supervisors of the county in which the affected territory is located shall be the conducting authority and conduct proceedings for all of the following changes of organization or reorganization:

(1) The incorporation of a new city.

(2) The consolidation of districts.

(3) The dissolution of a district.

(4) The merger or establishment of a subsidiary district.

(5) Any reorganization, except as specified in subdivision (e) or (f).

(e) The commission may determine that the city council of an affected city shall be the conducting authority for reorganization proceedings where annexation or detachment to that city is proposed.

(f) The commission may determine that the legislative body of an affected district shall be the conducting authority for reorganization proceedings involving only annexations to, or detachments from, districts where an annexation or detachment to that district is proposed.

(g) Proceedings for the formation of a district shall be conducted as authorized in the principal act of the district proposed to be formed.

56030. "Consolidation" means the uniting or joining of two or more cities located in the same county into a single new successor city or two or more districts into a single new successor district. In the case of consolidation of special districts, all of those districts shall have been formed pursuant to the same principal act.

56031. (a) "Contiguous" means both of the following:

(1) In the case of annexation, territory adjacent to, or territory adjoining territory within, the local agency to which annexation is proposed.

(2) In the case of consolidation, territory of a local agency or agencies which is adjacent to, or adjoining the territory of, the consolidating local agency or to the territory of another local agency which is contiguous to the consolidating local agency and to be consolidated with the consolidating local agency.

(b) Territory is not contiguous if the only contiguity is based upon a strip of land more than 300 feet long and less than 200 feet wide, that width to be exclusive of highways.

56032. "County officer" means a member of the board of supervisors.

56033. "Detachment" means the detachment, deannexation, exclusion, deletion, or removal from a city or district of any portion of the territory of that city or district.

56034. "Disincorporation" means the disincorporation, dissolution, extinguishment, and termination of the existence of a city and the cessation of its corporate powers, except for the purpose of winding up the affairs of the city.

56035. "Dissolution" means the dissolution, disincorporation, extinguishment, and termination of the existence of a district and the cessation of all its corporate powers, except for the purpose of winding up the affairs of the district.

56036. (a) "District" or "special district" means an agency of the state, formed pursuant to general law or special act, for the local performance of governmental or proprietary functions within limited boundaries. "District" or "special district" includes a county service area, but excludes all of the following:

(1) The state.

(2) A county.

(3) A city.

(4) A school district or a community college district.

(5) A special assessment district.

(6) An improvement district.

(7) A community facilities district formed pursuant to the Mello-Roos Community Facilities Act of 1982, Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5.

(b) (1) None of the following entities, is a "district" or a "special district" for the purposes of Chapter 1 (commencing with Section

57000) to Chapter 7 (commencing with Section 57175), inclusive, of Part 4 or Part 5 (commencing with Section 57300):

(A) A unified or union high school library district.

(B) An air pollution control district.

(C) A bridge and highway district.

(D) A joint highway district.

(E) A transit or rapid transit district.

(F) A metropolitan water district.

(2) Any proceedings for a change of organization or reorganization involving an entity described in paragraph (1) that is not governed by Part 1 (commencing with Section 56000), Part 2 (commencing with Section 56300), Part 3 (commencing with Section 56650), or Chapter 8 (commencing with Section 57200) of Part 4 shall be conducted pursuant to the principal act authorizing the establishment of those entities.

(c) (1) Except as otherwise provided in paragraph (2), each of the entities listed in paragraph (3) is a "district" or "special district" for purposes of this division.

(2) None of the entities listed in paragraph (3) is a "district" or "special district" for the purposes of Part 4 (commencing with Section 57000) or Part 5 (commencing with Section 57300) if the commission of the principal county determines, in accordance with Sections 56127 and 56128, that the entity is not a "district" or "special district."

(3) (A) A flood control district.

(B) A flood control and floodwater conservation district.

(C) A flood control and water conservation district.

(D) A conservation district.

(E) A water conservation district.

(F) A water replenishment district.

(G) The Orange County Water District.

(H) A California water storage district.

(I) A water agency.

(J) A county water authority or a water authority.

56037. "District of limited powers" means an airport district, community services district, municipal utility district, public utilities district, fire protection district, harbor district, port district, recreational harbor district, small craft harbor district, resort improvement district, library district, local hospital district, local health district, municipal improvement district formed pursuant to any special act, municipal water district, police protection district, recreation and park district, garbage disposal district, garbage and refuse disposal district, sanitary district, county sanitation district, public cemetery district, California water district, county water district, county waterworks district, or irrigation district.

56038. "Executive officer" means the executive officer appointed by a commission, or if none has been appointed, then the county official acting as the executive officer for the commission in accordance with Section 56384.

56039. "Formation" means the formation, incorporation, organization, or creation of a district.

56040. "Function" means any power granted by law to a local agency or a county to provide designated governmental or proprietary services or facilities for the use, benefit, or protection of persons or property.

56041. "Improvement district" means a district, area, or zone formed for the sole purpose of designating an area which is to bear a special tax or assessment for an improvement benefiting that area.

56042. "Include," except when used in relation to the inclusion of land, does not necessarily exclude matters not enumerated.

56043. "Incorporation" means the incorporation, formation, creation, and establishment of a city with corporate powers. Any area proposed for incorporation as a new city shall have at least 500 registered voters residing within the affected area at the time commission proceedings are initiated.

56044. "Independent special district" includes any special district having a legislative body all of whose members are elected by registered voters or landowners within the district, or whose members are appointed to fixed terms, and excludes any special district having a legislative body consisting, in whole or in part, of ex officio members who are officers of a county or another local agency or who are appointees of those officers other than those who are appointed to fixed terms. "Independent special district" does not include any district excluded from the definition of district contained in Section 56036.

56045. "Independent special district officer" means the presiding officer or a member of the legislative body of an independent special district.

56046. "Inhabited territory" means territory within which there reside 12 or more registered voters. The date on which the number of registered voters is determined is the date of the adoption of a resolution of application by the legislative body pursuant to Section 56800 or the date of the issuance of a certificate of sufficiency by the executive officer for a petition, whichever is applicable. All other territory shall be deemed "uninhabited."

56047. "Initiate" or "initiation" means the acceptance for filing and the issuance of a certificate of filing by the executive officer.

56048. (a) Except as otherwise provided in subdivision (b) or (c), "landowner" or "owner of land" means all of the following:

(1) Any person shown as the owner of land on the last equalized assessment roll except where that person is no longer the owner. Where that person is no longer the owner, the landowner or owner of land is any person entitled to be shown as owner of land on the next assessment roll.

(2) Where land is subject to a recorded written agreement of sale, any person shown in the agreement as purchaser.

(3) Any public agency owning land.

(b) "Landowner" or "owner of land" does not include a public

agency which owns highways, rights-of-way, easements, waterways, or canals.

(c) For the purpose of mailed notice provided pursuant to Section 56157, "landowner" or "owner of land" means each person to whom land is assessed, as shown upon the last equalized assessment roll of the county, at the address shown upon that assessment roll.

56049. "Landowner-voter" means any person entitled to vote in a landowner-voter district, or the legal representative of that person or, in the case of an election, the proxy of that person.

56050. "Landowner-voter district" means a district whose principal act provides that owners of land within the district are entitled to vote upon the election of district officers, the incurring of bonded indebtedness, or any other district matter.

56051. "Last equalized assessment roll" means the last equalized assessment roll or book used by a county, city, or district for the purpose of the annual levy and collection of any taxes or assessments imposed by the county, city, or district.

This section does not require the use of the supplemental roll prepared pursuant to Chapter 3.5 (commencing with Section 75) of Part 0.5 of Division 1 of the Revenue and Taxation Code.

56052. "Legal representative" means an officer of a corporation duly authorized, by the bylaws or a resolution of the board of directors of the corporation, to sign for, and on behalf of, the corporation. Legal representative also includes a guardian, conservator, executor, administrator, or other person holding property in a trust capacity under appointment of a court, when authorized by an order of the court. The order of the court may be made without notice.

56053. "Legislative body" means the legislative body or governing board of a city, special district, or county.

56054. "Local agency" means a city or a district.

56055. "Member district" means any district which is included, in whole or in part, within another district, a metropolitan water district, or any of the entities enumerated in subdivision (c) of Section 56036, all or any part of the first-mentioned district being entitled, under the provisions of the principal act of the second-mentioned district or entity, to receive or be furnished with any governmental or proprietary service or commodity by the second-mentioned district or entity.

56056. "Merger" means the extinguishment, termination, and cessation of the existence of a district of limited powers by the merger of that district with a city as a result of proceedings taken pursuant to this division.

56057. "Next equalized assessment roll" means the next assessment roll or book to be equalized and used by a city, county, or district for the purpose of the annual levy and collection of any taxes or assessments imposed by the city, county, or district.

56058. "Notice" means any matter authorized or required by this division to be published, posted, or mailed.

56059. "Open space" means any parcel or area of land or water which is substantially unimproved and devoted to an open-space use, as defined in Section 65560.

56060. "Open-space use" means any use as defined in Section 65560.

56061. "Overlap" or "overlapping territory" means territory which is included within the boundaries of two or more districts or within one or more districts and a city or cities.

56062. "Parent district" means any district, a metropolitan water district, or any of the entities enumerated in subdivision (c) of Section 56036, which includes all or any part of another district, the first-mentioned district or entity being obligated, under the provisions of the principal act of the first-mentioned district or entity, to provide and furnish any governmental or proprietary service or commodity to the second-mentioned district.

56063. "Plan of reorganization" means a plan or program for effecting a reorganization and which contains a description of all changes of organization included in the reorganization and setting forth all terms, conditions, and matters necessary or incidental to the effectuation of that reorganization.

56064. "Prime agricultural land" means an area of land, whether a single parcel or contiguous parcels, which has not been developed for a use other than an agricultural use and which meets any of the following qualifications:

(a) Land which qualifies for rating as class I or class II in the Soil Conservation Service land use capability classification.

(b) Land which qualifies for rating 80 through 100 Storie Index Rating.

(c) Land which supports livestock used for the production of food and fiber and which has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the United States Department of Agriculture in the National Handbook on Range and Related Grazing Lands, July, 1967, developed pursuant to Public Law 46, December 1935.

(d) Land planted with fruit or nut-bearing trees, vines, bushes, or crops which have a nonbearing period of less than five years and which will return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than two hundred dollars ($200) per acre.

(e) Land which has returned from the production of unprocessed agricultural plant products an annual gross value of not less than two hundred dollars ($200) per acre for three of the previous five calendar years.

(f) Land which is used to maintain livestock for commercial purposes.

56065. "Principal act" means, in the case of a district, the law under which the district was formed and, in the case of a city, the general laws or a charter, as the case may be.

56066. "Principal county" has the meaning contained in any

definition of "principal county," as set forth in the principal act. If the principal act has no definition of "principal county," or if there is any inconsistency between the definitions contained in two or more applicable principal acts, "principal county" means the county having all or the greater portion of the entire assessed value, as shown on the last equalized assessment roll of the county or counties, of all taxable property within a district or districts for which a change of organization or reorganization is proposed.

56067. "Proceeding," "proceeding for a change of organization," or "proceeding for a reorganization" means proceedings taken by the conducting authority for a proposed change of organization or reorganization pursuant to Part 4 (commencing with Section 57000).

56068. "Proponent" means any person intending to circulate, or cause the circulation of, any petition.

56069. "Proposal" means a request or statement of intention made by petition or by resolution of application of a legislative body proposing proceedings for the change of organization or reorganization described in the request or statement of intention.

56070. "Public agency" means the state or any state agency, board, or commission, any city, county, city and county, special district, or other political subdivision, or any agency, board, or commission of the city, county, city and county, special district, or other political subdivision.

56071. "Registered voter" means any elector registered under, and pursuant to, the Elections Code.

56072. "Registered-voter district" means a district whose principal act provides that registered voters residing within the district are entitled to vote for the election of district officers, incurring of bonded indebtedness, or any other district matter.

56073. "Reorganization" means two or more changes of organization initiated in a single proposal.

56074. "Service" means a class established within, and as a part of, a single function, as provided by regulations adopted by the commission pursuant to Chapter 5 (commencing with Section 56450) of Part 2.

56075. "Special assessment district" means an area fixed, established, and formed by a city, county, district, or the state, pursuant to general law, special act, or charter, that is specially benefited by, and assessed, or to be assessed, to pay the costs and expenses of, acquiring any lands or rights-of-way, acquiring or constructing any public improvements, maintaining or operating any public improvement, or lighting any public street, highway, or place.

56076. "Sphere of influence" means a plan for the probable ultimate physical boundaries and service area of a local agency, as determined by the commission.

56077. "Subject agency" means each district or city for which a change of organization is proposed or provided in a reorganization or plan of reorganization.

56078. "Subsidiary district" means a district of limited powers in which a city council is designated as, and empowered to act as, the ex officio board of directors of the district.

56079. "Sufficient petition" means a petition which, upon its filing and certification, requires the commission to hold a hearing and make determinations with respect to the proposal contained in the petition.

56080. "Urban service area" means developed, undeveloped, or agricultural land, either incorporated or unincorporated, within the sphere of influence of a city, which is served by urban facilities, utilities, and services or which are proposed to be served by urban facilities, utilities, and services during the first five years of an adopted capital improvement program of the city if the city adopts that type of program for those facilities, utilities, and services. The boundary around an urban area shall be called the "urban service area boundary" and shall be developed in cooperation with a city and adopted by a commission pursuant to policies adopted by the commission in accordance with Sections 56300, 56301, and 56425.

56081. "Voter" means a landowner-voter or a registered voter.

CHAPTER 3. INTRODUCTORY AND GENERAL PROVISIONS

56100. Except as otherwise provided in Section 56101 or 56115, this division provides the sole and exclusive authority and procedure for the initiation, conduct, and completion of changes of organization and reorganization for cities and districts. On and after January 1, 1986, all changes of organization and reorganizations shall be initiated, conducted, and completed in accordance with, and as provided in, this division.

56101. This division does not apply to any proceeding for a change of organization or reorganization which is pending on January 1, 1986. These pending proceedings may be continued and completed under, and in accordance with, the provisions of law under which the proceedings were commenced. The repeals, amendments, and additions made by the act enacting this division shall not apply to any of those pending proceedings, and, the laws existing prior to January 1, 1986, shall continue in full force and effect, as applied to those pending proceedings.

56102. For the purpose of any action to determine or contest the validity of any change of organization or reorganization, the change of organization or reorganization shall be deemed to be completed and in existence upon the date of execution of the certificate of completion.

56103. An action to determine the validity of any change of organization or reorganization completed pursuant to this division shall be brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure.

56104. If any provision of this division or the application of any provision of this division in any circumstance or to any person, city,

county, district, the state, or any agency or subdivision of the state is held invalid, that invalidity shall not affect other provisions or applications of this division which can be given effect without the invalid provision or application of the invalid provision, and to this end the provisions of this division are severable.

56105. Any protest or objection pertaining to the regularity or sufficiency of any proceedings or commission proceedings shall be in writing, clearly specify the defect, error, irregularity, or omission to which protest or objection is made and shall be filed within the time and in the manner provided by this division. Any protest or objection pertaining to any of these matters which is not so made and filed is deemed voluntarily waived.

56106. Any provisions in this division governing the time within which an official, a conducting authority, or the commission is to act shall in all instances, except for notice requirements, be deemed directory, rather than mandatory.

56107. This division shall be liberally construed to effectuate its purposes. No change of organization or reorganization ordered under this division and no resolution adopted by the commission making determinations upon a proposal shall be invalidated because of any defect, error, irregularity, or omission in any act, determination, or procedure which does not adversely and substantially affect the rights of any person, city, county, district, the state, or any agency or subdivision of the state. All determinations made by a commission under, and pursuant to, this division shall be final and conclusive in the absence of fraud or prejudicial abuse of discretion. Prejudicial abuse of discretion is established if the court finds that any determination of a commission or a legislative body was not supported by substantial evidence in light of the whole record.

56108. (a) No tidelands or submerged lands, as defined in subdivision (g), which are owned by the state or by its grantees in trust shall be incorporated into, or annexed to, a city, except lands which may be approved by the State Lands Commission.

(b) If those tidelands or submerged lands are included within the boundaries of any territory proposed to be incorporated into, or annexed to, a city, a description of the boundaries, together with a map showing the boundaries, shall be filed with the State Lands Commission by the proponents of the incorporation or annexation. The filing with the State Lands Commission shall be made prior to the executive officer issuing a certificate of filing for the proposal.

(c) The State Lands Commission shall approve or disapprove all portions of the boundaries located upon the tidelands or submerged lands. In making that determination, it shall, where feasible and appropriate, require any extensions of land boundaries of the city or proposed city to be at right angles to the general direction of the shoreline at each point of intersection of the shoreline with the land boundaries of the city or proposed city. However, in the interest of ensuring an orderly and equitable pattern of offshore boundaries, the

State Lands Commission may establish angles and other courses for each offshore boundary it deems necessary considering any irregularity of the shoreline, other geographical features, the effect of incorporation or annexation of the offshore or submerged lands on the uplands of the city, or proposed city, and adjoining territory, and the existing and potential boundaries of other cities and of unincorporated communities.

(d) Within 45 days after the filing of the boundary description and map with the State Lands Commission, the State Lands Commission shall make a determination of the proper offshore or submerged lands boundaries. That determination shall be final and conclusive. If the State Lands Commission does not make the determination within that time, the proposed offshore or submerged lands boundaries shall be deemed approved.

(e) The State Lands Commission shall report its determination to the executive officer and to each affected city, affected county, affected district, or person, if any, that has filed the boundary description and map. Thereafter, filings and action may be taken pursuant to this part.

(f) The local agency formation commission may review and make determinations as to all portions of the boundaries, other than those offshore or submerged lands boundaries.

(g) "Submerged lands," as used in this section, includes, but is not limited to, lands underlying navigable waters which are in sovereign ownership of the state whether or not those waters are subject to tidal influences.

56109. Unless otherwise determined by the commission pursuant to subdivision (o) of Section 56375, territory shall not be incorporated into, or annexed to, a city pursuant to this division if, as a result of that incorporation or annexation, unincorporated territory is completely surrounded by that city or by territory of that city on one or more sides and the Pacific Ocean on the remaining sides.

56110. Territory may not be annexed to a city unless it is located in the same county. Unless otherwise provided in this division, territory may not be annexed to a city unless it is contiguous to the city at the time the proposal is initiated pursuant to this part. Territory incorporated as a city shall be located within one county and, except as otherwise provided in Section 56111, shall be contiguous with all other territory being incorporated as a city.

56111. Notwithstanding Section 56110, upon approval of the commission a city may annex noncontiguous territory not exceeding 300 acres in area, which is located in the same county as that in which the city is situated, and which is owned by the city and is being used for municipal purposes at the time commission proceedings are initiated. If, after the completion of the annexation, the city sells that territory or any part of that territory, all of the territory which is no longer owned by the city shall cease to be a part of the city. Territory which is used by a city for reclamation, disposal, and storage of treated waste water may be annexed to the city pursuant to this

section without limitation as to the size of the area encompassed within the territory so annexed.

If territory is annexed pursuant to this section, the annexing city may not annex any territory not owned by the city and not contiguous to the city, although the territory is contiguous to the territory annexed pursuant to this section.

Notwithstanding any other provision of this section, a city which annexes territory pursuant to this section may annex additional territory in the same county as that in which the city is situated which is owned by the United States government or the State of California and which is contiguous to the first-annexed territory if the total acreage of the first-annexed and the subsequently annexed territory together does not exceed 300 acres in area. If after the completion of the subsequent annexation, the city sells all or any part of the first-annexed territory, the subsequently annexed territory shall cease to be part of the city if the subsequently annexed territory is no longer contiguous to territory owned by the city.

When territory ceases to be part of a city pursuant to this section, the legislative body of the city shall adopt a resolution confirming the detachment. The resolution shall describe the detached territory and shall be accompanied by a map indicating the territory. Immediately upon adoption of the resolution, the city clerk shall make any filing required by Chapter 8 (commencing with Section 57200).

If territory annexed to a city pursuant to this section becomes contiguous to the city, the limitations imposed by this section shall cease to apply.

56112. If authorized by the commission pursuant to subdivision (d) of Section 56375, unless the conducting authority terminates the proceedings as provided in Section 57080, the conducting authority shall order annexation of the territory without an election.

56113. (a) The authority to initiate, conduct, and complete any proceeding pursuant to Section 56112 does not apply to any territory which, after January 1, 1978, became surrounded or substantially surrounded by the city to which annexation is proposed. The authority to initiate, conduct, and complete any proceeding pursuant to Section 56112 shall expire January 1, 1988. The period of time between January 1, 1978, and January 1, 1988, shall not include any period of time during which, in an action pending in any court, a local agency is enjoined from conducting proceedings pursuant to Section 56112. Upon final disposition of that case, the previously enjoined local agency may initiate, conduct, and complete proceedings pursuant to Section 56112 for the same period of time as was remaining under that 10-year limit at the time the injunction commenced. However, if the remaining time is less than six months, that authority shall continue for six months following final disposition of the action.

(b) No new proposal involving the same or substantially the same territory as a proposal initiated pursuant to Section 56112 after January 1, 1984, shall be initiated for two years after the date of

adoption by the commission or by the conducting authority of a resolution terminating proceedings.

56114. (a) Notwithstanding Section 56031, unincorporated territory consisting of property abutting on a street, highway, or road, and the street, highway, or road, to the extent that it abuts that property, together with the road strip may be annexed to a city pursuant to this division under the following conditions:

(1) The annexation may be made only if the property to be annexed is within the sphere of influence of the annexing city, as adopted by the commission, and lies within an unincorporated area wholly surrounded by the annexing city or the annexing city and the county line or the annexing city and the Pacific Ocean or the annexing city and a boundary of another city.

(2) The property to be annexed shall not be annexed if the distance between the boundary of the annexing city and the point closest to the annexing city at which the road strip connects with the abutting property, as measured by the road strip, is more than one-half mile.

(b) Subsequent annexations to the road strip and abutting territory shall not be made unless both of the following conditions are met:

(1) The distance between the point at which the original road strip abuts the boundary of the annexing city and the point closest to the city at which the road strip connects with the abutting property to be annexed, as measured by the road strip, is one-half mile or less.

(2) The annexation is contiguous to the road strip.

(c) As used in this section:

(1) "Property to be annexed" means the property abutting on a street, highway, or road, and the street, highway, or road, to the extent it abuts the property.

(2) "Road strip" means the street, highway, or road which connects the territory of the property to be annexed to the annexing city.

(d) This section applies only to the City of Cupertino.

56115. If any fire protection district or fire district is organized under Part 2.7 (commencing with Section 13801) of Division 12 of the Health and Safety Code, those provisions shall provide an additional and alternative authority and procedure for the initiation, conduct, and completion of detachments of territory from any such district or for the dissolution of any such district or for the inclusion of a city or a portion of a city in a district. When a proceeding for a detachment or dissolution is made pursuant to Part 2.7 (commencing with Section 13801) of Division 12 of the Health and Safety Code, only the provisions of that law shall be applicable to the initiation, conduct, and completion of the proceedings, and this division shall not apply to the initiation, conduct, and completion of those proceedings.

56116. The Legislature declares that the doctrine of automatic

merger of a district with a city or the merger by operation of law of a district with a city has no further force or effect. The existence of a district shall not be extinguished or terminated as a result of the entire territory of that district being heretofore or hereafter included within a city unless that district is merged with the city as a result of proceedings taken pursuant to this division.

56117. A district of limited powers may be either merged with, or established as, a subsidiary district of a city in the manner provided in this division.

A mutual service agreement between a city and a district of limited powers may provide that the city shall not, while that agreement is in effect, or during any portion of the agreement's effective duration as the city and the district may stipulate in the agreement, initiate a proposal to establish the district as a subsidiary district of the city.

56118. Except for a proposal for the merger of a then existing subsidiary district, any proposal for a change of organization authorized by this division shall contain a request in the alternative, requesting either a merger or the establishment of a subsidiary district, as may be determined during the course of the proceedings. Any proposal requesting only merger shall be deemed to also include a request for the establishment of a subsidiary district and any proposal requesting only the establishment of a subsidiary district shall be deemed to also include a request for merger.

56119. It is not necessary for the principal act of any district to adopt or incorporate this division by reference and any change of organization or reorganization provided for by this division may be made by, or with respect to, any district. Except as otherwise provided in this division, in any change of organization or reorganization the principal act shall govern as to any provisions in the principal act pertaining to boundaries, to contiguity or noncontiguity of territory, to the incorporated or unincorporated status of territory, and to the overlapping of territory of a district with the territory of another district or city. Unless otherwise provided by the principal act, any territory annexed to a district shall be contiguous to the district and shall not be a part of another district formed under the same principal act without the consent of the other district.

56120. Where the principal act of any parent district provides that the boundaries of the parent district shall be automatically changed in the event of a change in the boundaries of a member district, or that the boundaries of the parent district may be concurrently changed with a change in the boundaries of a member district, the boundaries of the parent district shall be deemed to be automatically, or may be concurrently, changed as the case may be, when proceedings are in accordance with the provisions of the principal acts of any parent district, upon completion of a change of organization or a reorganization changing the boundaries of the member district. The commission of the principal county of the

member district shall have exclusive jurisdiction over such a change in boundaries of the member district and also of any parent district subject to this division.

56121. No change of organization or reorganization, or any term or condition of a change of organization or reorganization, shall impair the rights of any bondholder or other creditor of any county, city, or district. Notwithstanding any provision of this division, or of any change of organization or reorganization, or any term or condition of a change of organization or reorganization, each and every bondholder or other creditor may enforce all of his or her rights in the same manner, and to the same extent, as if the change of organization, reorganization, term, or condition had not been made. Those rights may also be enforced against agencies, and their respective officers, as follows:

(a) Annexation or detachment: against the city or district to, or from, which territory is annexed or detached.

(b) Incorporation: against the newly incorporated city.

(c) Formation: against the newly formed district.

(d) Disincorporation: against the successor county receiving distribution of the remaining assets of the disincorporated city.

(e) Dissolution: against the local agency receiving distribution of all or any part of the remaining assets of a dissolved district.

(f) Consolidation: against the consolidated successor city or district.

(g) Reorganization: against the affected city or district, successor county or newly incorporated city or newly formed district, as the case may be, for any of the above enumerated changes of organization or city incorporations which may be included in the particular reorganization.

56122. Section 56844 and any term and condition provided by, or made pursuant to, that section shall be enforceable by, between, among, and against any public agency or agencies designated in the term and condition, but shall not constitute, or be given effect as, a limitation upon the power of any bondholder or other creditor to enforce his or her rights, particularly any rights provided for by Part 5 (commencing with Section 57300), as if Section 56844 had not been enacted or the term and condition had not been made or provided pursuant to that section.

56123. Except as otherwise provided in Section 56124, if a proposed change of organization or a reorganization applies to two or more affected counties, for the purpose of this division, exclusive jurisdiction shall be vested in the officers of the principal county. Any notices, proceedings, orders, or any other acts authorized or required to be given, taken, or made by the commission, board of supervisors, clerk of a county, or any other county official, shall be given, taken, or made by the persons holding those offices in the principal county. Any officer of a county other than the principal county shall cooperate with the officers of the principal county and shall furnish the officers of the principal county with any certificates, records, or

certified copies of records as may be necessary to enable the officers of the principal county to comply with this division.

56124. If a proposed change of organization or a reorganization applies to two or more affected counties, for purposes of this division, exclusive jurisdiction may be vested in the officers of an affected county other than the principal county if all of the following occur:

(a) The commission of the principal county approves of having exclusive jurisdiction vested in another affected county.

(b) The commission of the principal county designates the affected county which shall assume exclusive jurisdiction.

(c) The commission of the affected county so designated agrees to assume exclusive jurisdiction.

If exclusive jurisdiction is vested in an affected county other than the principal county pursuant to this section, any notices, proceedings, orders, or any other acts authorized or required to be given, taken, or made by the commission, board of supervisors, clerk of a county, or any other officer of a county, shall be given, taken, or made by the persons holding those offices in the affected county. Any officer of a county other than the affected county shall cooperate with the officers of the affected county and shall furnish the officers of the affected county with any certificates, records, or certified copies of records as may be necessary to enable the officers of the affected county to comply with this division.

56125. If any reorganization provides for the formation of any new district or districts, the district or districts shall be deemed to have been formed upon compliance with the procedure and provisions of this division relating to reorganization. If the terms and conditions of any change of organization or reorganization provide for the formation of an improvement district or for the annexation of territory to, or detachment of territory from, an existing improvement district, that formation, annexation, or detachment shall be deemed to have been completed upon compliance with the procedure and provisions of this division relating to a change of organization or a reorganization. In any proceeding for a change of organization or a reorganization providing for territory to be formed into, or annexed to, or detached from, an improvement district, the clerk of the county or of the district, as the case may be, shall give mailed notice of hearing on the proposed change of organization or reorganization to all landowners owning land within the territory. No further or separate proceedings need be taken for the formation of any improvement district or for the annexation of territory to, or detachment of territory from, the existing improvement district. To that extent only, this division shall govern and provide the exclusive procedure for the formation of any such improvement district or for the annexation of territory to, or detachment of territory from, an existing improvement district and the provisions of the principal act relating to the formation of an improvement district or for the annexation of territory to, or detachment of territory from, an existing improvement district shall have no application.

56126. Upon request by the executive officer or the clerk of any county or district, the assessor of any city, county, or district shall furnish estimated assessed valuations, determined by the same methods and valuations used in preparing the last equalized assessment roll, in both of the following cases:

(a) Where real property is owned by a public agency and no assessed value for that real property is shown on the roll.

(b) Where a single assessment parcel shown on the last equalized assessment roll either:

(1) Has been split into two or more parcels by reason of the sale or conveyance of any portion of the original assessment parcel.

(2) Overlaps two or more counties, cities, districts, or election precincts, or any combination of those entities or precincts.

Any of these estimates shall be conclusively presumed to be assessed values for the purpose of this division, but shall be given no force or effect for other purposes.

56127. If the legislative body of any of the districts, agencies, or authorities enumerated in subdivision (c) of Section 56036 desires a determination by the commission that the district, agency, or authority is not a district or a special district, for purposes of Part 4 (commencing with Section 57000) or Part 5 (commencing with Section 57300), the legislative body, prior to the adoption of any ordinance, resolution, or order proposing, declaring an intention, or initiating proceedings to make a change of organization, shall make application to the commission of the principal county describing the proposed change of organization and requesting that determination. If a proposal is initiated by other than the legislative body of a district or special district, the district or special district may, within 10 days of notification by the commission of the initiation of the proposal, request a determination by the commission that it is not a district or special district for purposes of Part 4 (commencing with Section 57000) or Part 5 (commencing with Section 57300). That application shall be filed with the executive officer and shall be presented to the commission not later than its next regular meeting. The executive officer shall give the legislative body filing the application mailed notice of the time and place at which the application shall be presented to the commission. No other notice is required to be given. However, the commission may, prior to making its findings and determinations, order the executive officer to give notice of the filing and presentation of the application by publication or by mailing to other affected counties, cities, and districts, or by both publication and mailing.

56128. (a) Upon presentation of any application filed pursuant to Section 56127, the commission shall determine that the applicant district, agency, or authority is not a district or special district for purposes of Part 4 (commencing with Section 57000) or Part 5 (commencing with Section 57300), if the commission finds that the applicant is not engaged in any of the following:

(1) The distribution and sale for any purpose, other than for the

purpose of resale, of water or of gas or electricity for light, heat, or power.

(2) Furnishing sanitary sewer service or garbage and refuse collection service to the ultimate users, as defined in subdivision (b), of those services.

(3) Providing fire or police protection.

(4) The acquisition, construction, maintenance, lighting, or operation of streets and highways, street and highway improvements, or park and recreation facilities, except as an incident to the exercise of other lawful powers of the applicant.

(b) "Ultimate user" means any user or consumer other than the state, the United States, a city, a county, or a district, or any agency, department, or office of any of those entities or a public utility.

If the commission determines that any applicant district, agency, or authority enumerated in subdivision (c) of Section 56036 is not a district or special district, for purposes of Part 4 (commencing with Section 57000) or Part 5 (commencing with Section 57300), then those provisions shall not apply to the change of organization or reorganization described in the application and proceedings for the change of organization or reorganization shall be taken under and pursuant to the principal act. If no application is made to the commission, or if the commission in passing upon an application does not determine that the applicant is not a district or special district for the purposes of Part 4 (commencing with Section 57000) or Part 5 (commencing with Section 57300), then, except as otherwise provided in Section 56115, this division shall provide the sole and exclusive authority for the initiation, conduct, and completion for a change of organization or reorganization by that district, agency, or authority and, to the extent of any inconsistency between this division and the principal act of the applicant, this division shall control.

56129. (a) If a public utility has been granted a certificate of public convenience and necessity authorizing and requiring it to furnish gas or electric service within a certain service area and, as a result of a change of organization or a reorganization, territory consisting of all, or any part, of that service area becomes a part of, or is formed into, a district authorized by its principal act to furnish gas or electric service, the district shall not furnish that service within the territory except upon approval by both of the following:

(1) The commission after receipt and consideration of the report of the Public Utilities Commission made as provided in Section 56131.

(2) The voters within the territory, given at an election as provided in Section 56130.

(b) If both of those approvals are given, upon assumption of service by the district the public utility may at any time thereafter withdraw service within the territory, unless otherwise ordered by the Public Utilities Commission.

(c) "Gas or electric service," as used in this section and in Sections 56130, 56131, and 56832, means the distribution and sale for any

purpose, other than for the purpose of resale, of gas or electricity for light, heat, or power.

56130. Voter approval within the territory, as required by Section 56129, shall be given at an election. The question submitted at the election shall identify the district, designate the kind of service to be furnished, identify the territory within which the service is proposed to be furnished, and state the name of the public utility presently authorized to furnish the gas or electric service within the territory.

The district shall not furnish the gas or electric service, as defined in subdivision (c) of Section 56129, within the territory unless the question of furnishing the gas or electric service has been submitted to the voters at an election called, held, and conducted within the territory and a majority of the votes cast upon the question are in favor of the service. The board of supervisors or the legislative body of the conducting district may submit the question at the election called upon the question of confirmation of an order of change of organization or reorganization, or the board of directors of the district may submit the question of the gas or electric service at a special election called after completion of the proceedings for a change of organization or a reorganization. The question of the service shall be submitted as a separate proposition at any election within the territory and shall be voted upon only by qualified voters within the territory. If the question is defeated at the election, for one year thereafter no petition requesting the gas or electric service may be filed and no new election called upon the question.

56131. The executive officer shall file with the Public Utilities Commission a certified copy of any proposal for a change of organization or a reorganization which provides, as a part of the change of organization or reorganization, that gas or electric service, as defined in subdivision (c) of Section 56129, be furnished by a district within any of the territory affected by the change of organization or reorganization. The certified copy need not contain any signatures if the proposal is by petition. After that change of organization or reorganization has been ordered, the clerk of the district shall file with the Public Utilities Commission a certified copy of any ordinance, resolution, or order made by the board of directors of a district proposing to furnish gas or electric service, as defined in subdivision (c) of Section 56129, within the territory.

After that filing, the Public Utilities Commission shall cause an investigation to be made and may conduct any hearings in connection with the proposal. Upon completion of the investigation and not later than 90 days after the date of the filing, the Public Utilities Commission shall make a report to the commission stating whether, in the opinion of the Public Utilities Commission, the proposed service by the district within the territory will substantially impair the ability of the public utility to provide adequate service at reasonable rates within the remainder of the service area of the public utility.

The secretary of the Public Utilities Commission shall immediately

file a certified copy of that report with the executive officer.

CHAPTER 4. NOTICE

56150. Unless the provision or context otherwise requires, whenever this division requires notice to be published, posted, or mailed, the notice shall be published, posted, or mailed as provided in this chapter.

56151. Notice authorized or required to be given by publication, posting, or mailing shall be given by the clerk or executive officer and shall contain all matters required by any particular provision of this division. If any ordinance, resolution, or order of any legislative body or the commission gives notice and contains all matters required to be contained in any notice, the clerk or executive officer may cause a copy of that ordinance, resolution, or order to be published, posted, or mailed, in which case no other notice need be given by the clerk or executive officer. The notice requirements of Section 4002 of the Elections Code shall also apply to petitions to annex territory to a city, the consolidation of cities, or the dissolution of a city.

56152. Whenever any notice is required to be given and the duty of giving that notice is not specifically enjoined upon some officer, agency, or person, the clerk or executive officer, as the case may be, shall give notice or cause that notice to be given.

56153. Notice required to be published shall be published pursuant to Section 6061 in one or more newspapers of general circulation within each affected county, affected city, or affected district. If any newspaper is a newspaper of general circulation in two or more affected cities or affected districts, publication in that newspaper shall be sufficient publication for all those affected cities or affected districts. If there are two or more affected counties, publication shall be made in at least one newspaper of general circulation in each of the affected counties.

56154. If the published notice is a notice of a hearing, publication of the notice shall be commenced at least 15 days prior to the date specified in the notice for the hearing.

56155. Except as otherwise provided in this division, mailed notice shall be sent first class and deposited, postage prepaid, in the United States mails and shall be deemed to have been given when so deposited.

56156. If the mailed notice is notice of a hearing, the notice shall be mailed at least 15 days prior to the date specified in the notice for hearing.

56157. When mailed notice is required to be given to:

(a) A county, city, or district, it shall be addressed to the clerk of the county, city, or district.

(b) A conducting authority, it shall be given by certified mail, return receipt requested, and shall be addressed to the clerk of the conducting authority at the mailing address of the legislative body of

the authority as specified in the filing made pursuant to Section 53051.

(c) A commission, it shall be addressed to the executive officer.

(d) Chief petitioners, it shall be addressed to the persons so designated in the petition at the address specified in the petition.

(e) Landowners, it shall be addressed to each person to whom land is assessed, as shown upon the last equalized assessment roll of the county, at the address shown upon the assessment roll.

(f) Persons requesting special notice, it shall be addressed to each person who has filed a written request for special notice with the executive officer or clerk at the mailing address specified in the request.

56158. Notice required to be posted shall be posted on or near the doors of the meeting room of the legislative body or commission or upon any official bulletin board used for the purpose of posting public notices by, or pertaining to, the legislative body or commission.

56159. Posted notice shall remain posted for not less than five days. If the posted notice is notice of a hearing, posting shall be commenced at least 15 days prior to the date specified in the notice for hearing and shall continue to the time of the hearing.

PART 2. LOCAL AGENCY FORMATION COMMISSION

CHAPTER 1. GENERAL

56300. It is the intent of the Legislature that each commission establish policies and exercise its powers pursuant to this part in a manner that encourages and provides planned, well-ordered, efficient urban development patterns with appropriate consideration of preserving open-space lands within those patterns.

56301. Among the purposes of a commission are the discouragement of urban sprawl and the encouragement of the orderly formation and development of local agencies based upon local conditions and circumstances. One of the objects of the commission is to make studies and to obtain and furnish information which will contribute to the logical and reasonable development of local agencies in each county and to shape the development of local agencies so as to advantageously provide for the present and future needs of each county and its communities.

CHAPTER 2. FORMATION OF COMMISSION AND SELECTION OF COMMISSIONERS

56325. There is hereby continued in existence in each county a local agency formation commission. Except as otherwise provided in this chapter, the commission shall consist of five members selected as follows:

(a) Two representing the county, appointed by the board of

supervisors from their own membership. The board of supervisors shall appoint a third supervisor who shall be an alternate member of the commission. The alternate member may serve and vote in place of any supervisor on the commission who is absent or who disqualifies himself or herself from participating in a meeting of the commission.

If the office of a regular county member becomes vacant, the alternate member may serve and vote in place of the former regular county member until the appointment and qualification of a regular county member to fill the vacancy.

(b) Two representing the cities in the county, each of whom shall be a city officer, appointed by the city selection committee. The city selection committee shall also designate one alternate member who shall be appointed and serve pursuant to Section 56335.

(c) One representing the general public appointed by the other four members of the commission. The other four members of the commission may also designate one alternate member who shall be appointed and serve pursuant to Section 56331.

56326. In Los Angeles County, the commission shall consist of seven members, selected as follows:

(a) Two representing the county, appointed by the board of supervisors from its own membership. The board of supervisors shall also appoint a third supervisor who shall be an alternate member of the commission. The alternate member may serve and vote in place of any supervisor on the commission who is absent or who disqualifies himself or herself from participating in a meeting of the commission.

If the office of the regular county member becomes vacant, the alternate member may serve and vote in place of the former regular county member until the appointment and qualification of a regular county member to fill the vacancy.

(b) One representing the county, appointed by the board of supervisors, who shall not be a member of the board of supervisors but who shall be a resident of the San Fernando Valley Statistical Area, as defined in subdivision (c) of Section 11093. The board of supervisors shall also appoint an alternate member who shall not be a member of the board of supervisors but who is a resident of the San Fernando Valley Statistical Area. The alternate member may serve and vote in place of the member appointed pursuant to this subdivision if that member is absent or disqualifies himself or herself from participating in a meeting of the commission.

If the office of the regular member becomes vacant, the alternate member may serve and vote in place of the former regular member until the appointment and qualification of a regular member to fill the vacancy.

(c) Two representing the cities in the county, each of whom shall be a city officer, appointed by the city selection committee. The city selection committee shall also designate one alternate member who shall be appointed and serve pursuant to Section 56335.

(d) One representing a city in the county having a population in excess of 30 percent of the total population of the county who is a

member of the legislative body of the city, appointed by the presiding officer of the legislative body. The presiding officer of the legislative body shall also designate an alternate member who is a member of the legislative body. The alternate member may serve and vote in place of the member appointed pursuant to this subdivision if the member is absent or disqualifies himself or herself from participating in a meeting of the commission.

If the office of the regular member becomes vacant, the alternate member may serve and vote in place of the former regular member until the appointment and qualification of a regular member to fill the vacancy.

Prior to the end of each fiscal year, the city shall pay to the county that portion of the amount payable or paid by the county during the fiscal year pursuant to Section 56381 that is attributable to administrative costs incurred by the county on behalf of members serving on the commission pursuant to this subdivision and subdivision (b).

(e) One representing the general public appointed by the other six members of the commission.

56327. In Santa Clara County, the commission shall consist of five members, selected as follows:

(a) Two representing the county, appointed by the board of supervisors from their own membership. The board of supervisors shall appoint a third supervisor who shall serve as an alternate member of the commission. The alternate member may serve and vote in place of any supervisor on the commission who is absent or who disqualifies himself or herself from participating in a meeting of the commission. If the office of the regular county member becomes vacant, the alternate member may serve and vote in place of the former regular county member until the appointment and qualification of a regular county member to fill the vacancy.

(b) One representing the city in the county having the largest population, who is a member of the legislative body of the city, appointed by the city council. The city council shall also appoint an alternate member who is a member of the legislative body of the city. The alternate member may serve and vote in place of the regular city member if the city member is absent or disqualifies himself or herself from participating in a meeting of the commission. If the office of the regular city member becomes vacant, the alternate member may serve and vote in place of the former regular city member until the appointment and qualification of a regular city member to fill the vacancy.

(c) One representing the cities in the county, who is a city officer appointed by the city selection committee. The city selection committee shall also designate one alternate member who shall be appointed and serve pursuant to Section 56335.

(d) One representing the general public, appointed by the other four members of the commission. This member shall not be a resident of a city which is already represented on the commission.

The commission may also appoint an alternate public member, who shall not be a resident of a city represented on the commission, and who may serve and vote in the place of the regular public member if the regular public member is absent or disqualifies himself or herself from participating in a meeting of the commission. If the office of the regular public member becomes vacant, the alternate member may serve and vote in place of the former regular public member until the appointment and qualification of a regular public member to fill the vacancy.

The member initially selected to serve pursuant to subdivision (b) shall commence serving on or after January 1, 1983, on a date determined by the city council of the city referred to in subdivision (b), and shall serve for the remainder of the term of, and in place of, a member to be designated by the city council, appointed pursuant to subdivision (b) of Section 56325.

56328. (a) In San Diego County, the commission, which consists of seven members, augmented pursuant to Section 56332, shall be additionally augmented by the appointment of an eighth member and that member shall, notwithstanding subdivision (b) of Section 56325, be a member of the legislative body of the city in the county having the largest population, appointed by the legislative body of that city.

(b) The legislative body of the city shall appoint an alternate member at the same time and in the same manner as it appoints the regular member appointed pursuant to subdivision (a). If the regular city member is absent from a commission meeting, or disqualifies himself or herself from participating in a meeting, the alternate member may serve and vote in place of the regular city member for that meeting. If the office of the regular city member becomes vacant, the alternate member may serve and vote in place of the former regular city member until the appointment and qualification of a regular city member to fill the vacancy.

(c) The city representative initially appointed to serve pursuant to this section shall be appointed to a regular term to commence January 1, 1984.

(d) Before the end of each fiscal year, the city shall pay to the county that portion of the amount payable or paid by the county during the fiscal year pursuant to Section 56381 that is attributable to the additional administrative costs incurred by the county on behalf of members serving on the commission pursuant to subdivisions (a) and (b).

56329. If there is no city in the county, the commission shall consist of five members, selected as follows:

(a) Three representing the county, appointed by the board of supervisors from their own membership. The board of supervisors shall appoint a fourth supervisor who is an alternate member of the commission. The alternate member may serve and vote in place of any supervisor on the commission who is absent or who disqualifies himself or herself from participating in a meeting of the commission.

If the office of a regular county member becomes vacant, the alternate member may serve and vote in place of the former regular county member until the appointment and qualification of a regular county member to fill the vacancy.

(b) Two representing the general public appointed by the other three members of the commission.

56330. If there is only one city in the county, the commission shall consist of five members, selected as follows:

(a) Two representing the county, appointed by the board of supervisors from their own membership. The board of supervisors shall appoint a third supervisor who is an alternate member of the commission. The alternate member may serve and vote in place of any supervisor on the commission who is absent or who disqualifies himself or herself from participating in a meeting of the commission.

If the office of the regular county member becomes vacant, the alternate member may serve and vote in place of the former regular county member until the appointment and qualification of a regular county member to fill the vacancy.

(b) One representing the city, who is a city officer, appointed by the legislative body of the city. The legislative body of the city shall also designate one alternate member who shall serve and vote in the absence or disqualification of the regular appointed city representative.

If the office of the regular city member becomes vacant, the alternate city member may serve and vote in place of the former regular city member until the appointment and qualification of a regular city member to fill the vacancy.

(c) Two representing the general public appointed by the other three members of the commission.

56331. When appointing a public member pursuant to Sections 56325, 56326, 56329, and 56330, the commission may also appoint an alternate public member who may serve and vote in place of a regular public member who is absent or who disqualifies himself or herself from participating in a meeting of the commission.

If the office of a regular public member becomes vacant, the alternate member may serve and vote in place of the former regular public member until the appointment and qualification of a regular public member to fill the vacancy.

56332. (a) The commission of any county shall be enlarged by two members if, pursuant to Chapter 5 (commencing with Section 56450), the commission of any county does both of the following:

(1) Orders representation of special districts upon the commission.

(2) Adopts regulations affecting the functions and services of special districts.

In addition to the commission members selected pursuant to Sections 56325, 56329, and 56330, two commission members shall be selected by an independent special district selection committee to represent special districts in the county.

(b) The independent special district selection committee shall consist of the presiding officer of the legislative body of each independent special district. However, if the presiding officer of an independent special district is unable to attend a meeting of the independent special district selection committee, the legislative body of the district may appoint one of its members to attend the meeting of the selection committee in the presiding officer's place. Those districts shall include districts located wholly within the county and those containing territory within the county representing 50 percent or more of the assessed value of taxable property of the district, as shown on the last equalized county assessment roll. Each member of the committee shall be entitled to one vote for each independent special district of which he or she is the presiding officer. Members representing a majority of the eligible districts shall constitute a quorum.

(c) The executive officer shall call and give written notice of all meetings of the members of the selection committee. A meeting shall be called and held under either of the following circumstances:

(1) Whenever a vacancy exists among the members or alternate members representing independent special districts upon the commission.

(2) Upon receipt of a written request by one or more members of the selection committee representing districts having 10 percent or more of the assessed value of taxable property within the county, as shown on the last equalized county assessment roll.

(d) If the executive officer determines that a meeting of the special district selection committee, for the purpose of selecting the special district representatives or for filling a vacancy, is not feasible, the executive officer may conduct the business of the committee in writing, as provided in this subdivision. The executive officer may call for nominations to be submitted in writing within 30 days. At the end of the nominating period, the executive officer shall prepare and deliver, or send by certified mail, to each independent special district one ballot and voting instructions. The ballot shall include the names of all nominees and the office for which each was nominated. The districts shall return the ballots to the executive officer by the date specified in the voting instructions, which date shall be at least 30 days from the date on which the executive officer mailed the ballots to the districts. Any ballot received by the executive officer after the specified date is invalid. The executive officer shall announce the results of the election within seven days of the specified date.

(e) The selection committee shall appoint two regular members and one alternate member to the commission. The members so appointed shall be elected or appointed special district officers residing within the county but shall not be members of the legislative body of a city or county. If one of the regular district members is absent from a commission meeting, disqualifies himself or herself from participating in a meeting, or is automatically disqualified from participating in a meeting, the alternate district member may serve

and vote in place of the regular district member for that meeting. When the commission is considering any proposal affecting the district for which the regular member is a special district officer, that member is automatically disqualified from participating in proceedings of the commission with respect to the proposal and the alternate member shall serve and vote in place of the regular member upon the proposal.

(f) If the office of a regular district member becomes vacant, the alternate member may serve and vote in place of the former regular district member until the appointment and qualification of a regular district member to fill the vacancy.

56333. When a commission is enlarged to seven members as provided in Section 56332, the public members appointed pursuant to Sections 56325, 56329, and 56330 shall thereafter be appointed by members of the commission representing cities, counties, and special districts. Those appointments shall be made at the times and in the manner provided in Section 56334.

56334. The term of office of each member shall be four years and until the appointment and qualification of his or her successor. Upon enlargement of the commission by two members, as provided in Section 56332, the new members first appointed to represent independent special districts shall classify themselves by lot so that the expiration date of the term of office of one new member coincides with the existing member who holds the office represented by the original two-year term on the commission and of the other new member coincides with the existing member who holds the office represented by the original four-year term on the commission. The body which originally appointed a member whose term has expired shall appoint his or her successor for a full term of four years. Any member may be removed at any time and without cause by the body appointing that member. The expiration date of the term of office of each member shall be the first Monday in May in the year in which the term of the member expires. Any vacancy in the membership of the commission shall be filled for the unexpired term by appointment by the body which originally appointed the member whose office has become vacant.

The chairperson of the commission shall be selected by the members of the commission.

Commission members and alternates shall be reimbursed for the actual amount of their reasonable and necessary expenses incurred in attending meetings and in performing the duties of their office. The board of supervisors may authorize payment of a per diem to commission members and alternates for each day while they are in attendance at meetings of the commission.

56335. In each county containing two or more cities, regular and alternate city members to the commission shall be appointed by the city selection committee organized in the county pursuant to and in the manner provided in Article 11 (commencing with Section 50270) of Chapter 1 of Part 1 of Division 1. Regular members of the

commission shall be appointed by the city selection committee pursuant to Sections 56325, 56326, and 56327.

The city selection committee shall appoint one alternate member to the commission in the same manner as it appoints a regular member. If one of the regular city members is absent from a commission meeting, or disqualifies himself or herself from participating in a meeting, the alternate member may serve and vote in place of that regular city member for that meeting.

Except in the case of a member appointed pursuant to subdivision (d) of Section 56326 or subdivision (b) of Section 56327, a city selection committee, may, at the time it appoints a member or alternate, provide that the member or alternate is disqualified from voting on annexations to the city of which the member is a representative.

If the office of a regular city member becomes vacant, the alternate member may serve and vote in place of the former regular city member until the appointment and qualification of a regular city member to fill the vacancy.

56336. Each commission may adopt regulations with respect to disqualification of members from participating in the review of a proposal. In the absence, however, of those regulations, Section 56332 or 56335 shall apply. The representation by a member of a city shall not disqualify, or be cause for disqualification of, the member from acting on a proposal affecting the city, and any regulation providing for the disqualification of a city representative is null and void.

56337. A city or county officer may serve as a member of the commission while holding office as a city or county officer. If a member who is a city or county officer ceases to be an officer of a city or county during his or her term, his or her membership on the commission shall be considered vacant.

CHAPTER 3. POWERS

56375. The commission shall have all of the following powers and duties subject to any limitations upon its jurisdiction set forth in this part:

(a) To review and approve or disapprove with or without amendment, wholly, partially, or conditionally, proposals for changes of organization or reorganization. However, a commission shall not have the power to disapprove an annexation to a city, initiated by resolution, of contiguous territory which the commission finds is either:

(1) Surrounded or substantially surrounded by the city to which the annexation is proposed or by that city and a county boundary or the Pacific Ocean if the territory to be annexed is substantially developed or developing, is not prime agricultural land as defined in Section 56064, is designated for urban growth by the general plan of the annexing city, and is not within the sphere of influence of another city.

(2) Located within an urban service area which has been delineated and adopted by a commission, which is not prime agricultural land, as defined by Section 56064, and is designated for urban growth by the general plan of the annexing city.

As a condition to the annexation of an area, which is surrounded, or substantially surrounded, by the city to which the annexation is proposed, the commission may require, where consistent with the purposes of this division, that the annexation include the entire island of surrounded, or substantially surrounded, territory.

A commission shall not impose any conditions which would directly regulate land use, property development, or subdivision requirements. When the development purposes are not made known to the annexing city, the annexation shall be reviewed on the basis of the adopted plans and policies of the annexing city or county. This paragraph does not prohibit a commission from requiring, as a condition to annexation, that a city prezone the territory to be annexed. However, the commission shall not specify how, or in what manner, the territory shall be prezoned.

(b) With regard to a proposal for annexation or detachment of territory to, or from, a city or district or with regard to a proposal for reorganization which includes annexation or detachment, to determine whether territory proposed for annexation or detachment, as described in its resolution approving the annexation, detachment, or reorganization, is inhabited or uninhabited.

(c) With regard to a proposal for consolidation of two or more cities or districts, to determine which city or district shall be the consolidated, successor city or district.

(d) To approve the annexation to a city after notice and hearing, and authorize the conducting authority to order annexation of the territory without an election, if the commission finds that the territory contained in an annexation proposal meets all of the following requirements:

(1) It does not exceed 75 acres in area, that area constitutes the entire island, and the island does not constitute a part of an unincorporated area which is more than 100 acres in area.

(2) It is surrounded in either of the following ways:

(A) Surrounded, or substantially surrounded, by the city to which annexation is proposed or by the city and a county boundary or the Pacific Ocean.

(B) Surrounded by the city to which annexation is proposed and adjacent cities.

(3) It is substantially developed or developing. The finding required by this subparagraph shall be based upon one or more factors, including, but not limited to, any of the following factors:

(i) The availability of public utility services.

(ii) The presence of public improvements.

(iii) The presence of physical improvements upon the parcel or parcels within the area.

(4) It is not prime agricultural land, as defined by Section 56064.

(5) It will benefit from the annexation or is receiving benefits from the annexing city.

(e) To approve the annexation of unincorporated, noncontiguous territory, subject to the limitations of Section 56111, located in the same county as that in which the city is located, and which is owned by a city and used for municipal purposes and to authorize the conducting authority to annex the territory without notice and hearing.

(f) Subject to Section 56029, to designate in the resolution making determinations the conducting authority for proceedings.

(g) When a change of organization or a reorganization includes the annexation of inhabited territory to a city and the assessed value of land within the territory equals one-half or more of the assessed value of land within the city, or the number of registered voters residing within the territory equals one-half or more of the number of registered voters residing within the city, to determine as a condition of the proposal that the change of organization or reorganization shall also be subject to confirmation by the voters in an election to be called, held, and conducted within the territory of the city to which annexation is proposed.

(h) With respect to the incorporation of a new city, to determine the number of registered voters residing within the proposed city.

(i) To adopt procedures for the evaluation of proposals. The commission may adopt standards for any of the factors enumerated in Section 56841.

(j) To adopt standards and procedures for the evaluation of service plans submitted pursuant to Section 56653.

(k) To make and enforce regulations for the orderly and fair conduct of hearings by the commission.

(*l*) To incur usual and necessary expenses for the accomplishment of its functions.

(m) To appoint and assign staff personnel and to employ or contract for professional or consulting services to carry out and effect the functions of the commission.

(n) To review the boundaries of the territory involved in any proposal with respect to the definiteness and certainty of those boundaries, the nonconformance of proposed boundaries with lines of assessment or ownership, and other similar matters affecting the proposed boundaries.

(o) To waive the restrictions of Section 56109 if it finds that the application of the restrictions would be detrimental to the orderly development of the community and that the area that would be enclosed by the annexation or incorporation is so located that it cannot reasonably be annexed to another city or incorporated as a new city.

(p) To waive the application of Section 25210.90 if it finds the application would deprive an area of a service needed to ensure the health, safety, or welfare of the residents of the area and if it finds that the waiver would not affect the ability of a city to provide any

service. However, within 60 days of the inclusion of the territory within the city, the legislative body may adopt a resolution nullifying the waiver.

(q) If the proposal includes the incorporation of a city, as defined in Section 56043, or the formation of a district, as defined in Section 2215 of the Revenue and Taxation Code, the commission shall determine the property tax revenue to be exchanged by the affected local agencies pursuant to Section 56842.

56376. The commission shall not impose a condition for the provision of services by the annexing city to an area which has not been placed within that city's adopted sphere of influence, as defined in Section 56076, unless that condition would mitigate effects which are a direct result of the annexation.

In the case of any annexation proposal for which a certificate of completion was not recorded prior to January 1, 1985, a condition imposed thereon which does not comply with the requirements of this section is null and void and shall not affect the validity of, or terminate the annexation proceedings.

56377. In reviewing and approving or disapproving proposals which could reasonably be expected to induce, facilitate, or lead to the conversion of existing open-space lands to uses other than open-space uses, the commission shall consider all of the following policies and priorities:

(a) Development or use of land for other than open-space uses shall be guided away from existing prime agricultural lands in open-space use toward areas containing nonprime agricultural lands, unless that action would not promote the planned, orderly, efficient development of an area.

(b) Development of existing vacant or nonprime agricultural lands for urban uses within the existing jurisdiction of a local agency or within the sphere of influence of a local agency should be encouraged before any proposal is approved which would allow for or lead to the development of existing open-space lands for non-open-space uses which are outside of the existing jurisdiction of the local agency or outside of the existing sphere of influence of the local agency.

56377.5. Every determination made by a commission regarding the matters provided for by subdivisons (a), (o), and (p) of Section 56375 shall be consistent with the spheres of influence of the local agencies affected by those determinations.

56378. In addition to its other powers, the commission shall initiate and make studies of existing governmental agencies. Those studies shall include, but shall not be limited to, inventorying those agencies and determining their maximum service area and service capacities. In conducting those studies, the commission may ask for land use information, studies, and plans of cities, counties, districts, including school districts, community college districts, and regional agencies and state agencies and departments. Cities, counties, districts, including school districts, community college districts,

regional agencies, and state agencies and departments, shall comply with the request of the commission for that information and the commission shall make its studies available to public agencies and any interested person. In making these studies, the commission may cooperate with the county planning commissions.

The commission, or the board of supervisors on behalf of the commission, may apply for or accept, or both, any financial assistance and grants-in-aid from public or private agencies or from the state or federal government or from a local government.

56379. Any person may, prior to any meeting, request any commission to cause a transcript record to be made of a meeting. If the cost of the record is borne by that person, the commission shall cause a transcript record to be made.

56380. The board of supervisors shall, in conformance with Section 56381, furnish the commission with necessary quarters, equipment, and supplies, and the usual and necessary operating expenses incurred by the commission shall be a county charge.

56381. On or before the 10th day of June, the commission shall prepare and transmit to the board of supervisors an estimate of the amount of money needed for the purposes prescribed by Section 56380 during the following fiscal year. The board of supervisors shall provide for the use of the commission during that fiscal year not less than the amount of money equal to any one of the following:

(a) The amount fixed by the commission.

(b) The amount appropriated in the prior fiscal year increased by the same percentage as the appropriations limit of the county for that fiscal year will be increased from the prior fiscal year.

(c) The amount determined in subdivision (b) plus any additional amount the board of supervisors deems necessary.

The county auditor shall audit and allow or reject all claims for expenditures for county charges incurred pursuant to this chapter in lieu of, and with the same effect as, allowance or rejection of claims by the board of supervisors.

56382. The commission may authorize the destruction of any duplicate record, paper, or other document if the original or a photographic copy of the record, paper, or other document is retained in the files of the commission. The commission may authorize the destruction of original records more than two years old if a photographic copy of the original record is made and preserved.

56383. The commission may, after giving public notice and holding a hearing, establish a schedule of fees for filing and processing applications filed with the commission pursuant to Section 56828. Those fees shall not exceed those charged pursuant to Sections 56654 and 56655. When a district files an application for extension of its powers, a commission may establish a schedule of fees for costs incurred pursuant to that application. Those fees shall not exceed the estimated reasonable cost of providing the service, or one thousand five hundred dollars ($1,500), whichever is less. Those fees shall be imposed pursuant to Chapter 13 (commencing with Section

54990) of Part 1 of Division 2 of Title 5.

56384. The commission may appoint an executive officer who shall conduct and perform the day-to-day business of the commission. If the commission does not appoint an executive officer, the county administrator, or, if there is none, the county clerk, shall act as executive officer for the commission.

56385. The commission may contract for retirement benefits for the executive officer or staff personnel pursuant to the County Employees Retirement Law of 1937, Chapter 3 (commencing with Section 31450) of Part 3 of Division 4 of Title 3 or the Public Employees' Retirement Law, Part 3 (commencing with Section 20000) of Division 5 of Title 2. It may also provide for health and medical benefits.

The commission shall preserve accrued vacation, sick leave, compensatory time, and retirement benefits of persons hired from within the employment of their respective county.

56386. The officers and employees of a city, county, or special district, including any school district, community college district, and any regional agency, or state agency or department, as may be necessary, shall furnish the executive officer with any records or information in their possession which may be necessary to assist the commission.

Upon request by the commission or the executive officer, the county surveyor, or any other county officer, county official, or employee as the board of supervisors may designate, shall examine and report to the commission or the executive officer upon any application or other document involving any of the matters specified in subdivision (n) of Section 56375.

56387. Except as otherwise provided in Section 56388, if any district is, or as a result of a proposed change of organization or reorganization would be, located in more than one county, the commission of the principal county shall have exclusive jurisdiction over the matters authorized and required by this part.

56388. If any proposal involves a district which is, or as a result of a proposed change of organization or reorganization would be, located in more than one county, exclusive jurisdiction for that proposal over the matters authorized and required by this part may be vested in the commission of a county, other than the principal county, in which territory of the district is located or is proposed to be located if all of the following occur:

(a) The commission of the principal county agrees to having the exclusive jurisdiction vested in the commission of another county.

(b) The commission of the principal county designates the commission of another county which shall assume exclusive jurisdiction.

(c) The commission of the county so designated agrees to assume exclusive jurisdiction.

CHAPTER 4. SPHERES OF INFLUENCE

56425. (a) In order to carry out its purposes and responsibilities for planning and shaping the logical and orderly development and coordination of local governmental agencies so as to advantageously provide for the present and future needs of the county and its communities, the commission shall develop and determine the sphere of influence of each local governmental agency within the county. In determining the sphere of influence of each local agency, the commission shall consider and prepare a written statement of its determinations with respect to each of the following:

(1) The present and planned land uses in the area, including agricultural and open-space lands.

(2) The present and probable need for public facilities and services in the area.

(3) The present capacity of public facilities and adequacy of public services which the agency provides or is authorized to provide.

(4) The existence of any social or economic communities of interest in the area if the commission determines that they are relevant to the agency.

(b) Upon determination of a sphere of influence, the commission shall adopt that sphere, and shall periodically review and update the adopted sphere.

(c) The commission may recommend governmental reorganizations to particular agencies in the county, using the spheres of influence as the basis for those recommendations. Those recommendations shall be made available, upon request, to other agencies or to the public.

56426. (a) The commission shall develop, determine, and adopt the sphere of influence for each local agency within its jurisdiction which provides facilities or services related to development no later than January 1, 1985. The commission shall develop, determine, and adopt the sphere of influence for all other local agencies within its jurisdiction no later than June 30, 1985.

(b) Until January 1, 1985, a commission which has not adopted a sphere of influence for a local agency which provides facilities or services related to development may review, approve, conditionally approve, or disapprove a proposal which includes territory which might be contained within the sphere of such local agency. Until June 30, 1985, a commission which has not adopted a sphere of influence for other local agencies may review, approve, conditionally approve, or disapprove proposals which include territory which might be contained within the sphere of influence of these local agencies. Until January 1, 1985, when acting on a proposal pursuant to this subdivision the commission shall prepare a written statement of determinations with respect to the existence of agricultural preserves in the area which could be considered within an agency's sphere of influence and the effect on maintaining the physical and

economic integrity of those preserves in the event that those preserves are within a sphere of influence of a local governmental agency. If the proposal would result in the conversion of prime agricultural land to nonagricultural use, the commission shall make written determinations explaining the reasons for its decision.

On and after January 1, 1985, a commission shall not approve or conditionally approve any proposal which would result in the conversion of agricultural land to nonagricultural use if the commission has not adopted a sphere of influence for each local agency which might, as determined by the commission, include the subject territory in its sphere of influence and which provides facilities or services related to development.

(c) "Facilities or services related to development," as used in this section, means public works or service programs related to sewers, nonagricultural water, streets and roads, flood control, drainage, and structural fire protection.

56427. The commission shall adopt, amend, or revise spheres of influence after a public hearing called and held for that purpose. At least 15 days prior to the date of that hearing, the executive officer shall give mailed notice of the hearing to each affected local agency or affected county, and to any interested party who has filed a written request for notice with the executive officer. In addition, at least 15 days prior to the date of that hearing, the executive officer shall cause notice of the hearing to be published in accordance with Section 56153 in a newspaper of general circulation which is circulated within the territory affected by the sphere of influence proposed to be adopted. The commission may continue from time to time any hearing called pursuant to this section.

At any hearing called and held pursuant to this section, the commission shall hear and consider oral or written testimony presented by any affected local agency or affected county or any interested person who wishes to appear.

This section shall only apply to spheres of influence adopted by the commission after January 1, 1975.

56428. If any local agency or county desires an amendment or revision of an adopted sphere of influence or urban service area, as defined by Section 56080, the local agency or county, by resolution of its legislative body, may file a request for amendment or revision with the executive officer who shall present the request to the commission at its next regular meeting. The commission, upon receipt of that resolution, shall set a time and date for hearing of the request and shall direct the executive officer to give notice of the hearing at the times and in the manner prescribed in Section 56427. At the hearing, the commission shall hear any interested persons and consider the requests for an amendment or revision of the sphere of influence or urban service area. The commission may continue the hearing from time to time not to exceed 70 days from the date specified in the notice of hearing. At the conclusion of the hearing, the commission shall deny or approve, in whole or in part, the

request.

Any local agency or county making a request pursuant to this section shall reimburse the commission for the actual and direct costs incurred by the commission in complying with this section. However, the commission may waive that reimbursement if it finds that the request for amendment or revision of a sphere of influence or urban service area can be considered and studied as a part of the periodic review of spheres of influence required by Section 56425.

CHAPTER 5. SPECIAL DISTRICTS

56450. The commission may take proceedings pursuant to this chapter for the adoption, amendment, or repeal of regulations affecting the functions and services of special districts within the county and for representation of special districts upon the commission. Those proceedings may be initiated either by the commission or by independent special districts within the county. If those regulations are adopted and affect the functions or services provided or authorized to be provided by law by special districts within the county, then, so long as those regulations remain in effect, special districts shall be represented by members appointed to the commission.

56451. The commission may adopt, amend, or repeal regulations affecting the functions and services of special districts within the county. The regulations shall designate the special districts, by type and by principal act, to which they apply and the regulations shall not apply to, or affect the functions and services of, any special districts not so designated. The regulations may do any of the following:

(a) Classify the various types of service which customarily are, or can be, provided within a single function of a special district. A class may be based upon the type of service, the purpose or use of the service, the facilities used to provide the service, the type of consumers or users of the service, the extent of territory provided with the service, and any other factors which, in the opinion of the commission, are necessary or convenient to group persons, properties, or activities into a class having common characteristics distinct from those of other classes.

(b) Require existing districts to file written statements with the commission specifying the functions or classes of service provided by those districts.

(c) Establish the nature, location, and extent of any functions or classes of service provided by existing districts.

(d) Determine that, except as otherwise authorized by the regulations, no new or different function or class of service shall be provided by any existing district.

The regulations shall not apply to the extension or enlargement, within the boundaries of an existing special district, of any function or service which the commission, pursuant to this section, has

established is currently being provided by that special district.

56452. In any county where regulations have been adopted, an application for the formation of a special district shall set forth the functions and services proposed to be provided by the district. If, in the opinion of the commission, approval of the application will necessitate adoption of any new regulations or the amendment or repeal of any existing regulations, the commission may condition approval of the application upon the adoption, amendment, or repeal of the regulations and shall initiate and conduct proceedings pursuant to this chapter for the adoption, amendment, or repeal of those regulations.

56453. Either the commission or the legislative body of any independent special district within a county may adopt a resolution initiating proceedings.

(a) If a resolution proposes representation of special districts upon the commission, it shall also request the adoption of regulations, as designated in Section 56451, affecting the functions and services of special districts within the county.

(b) If a resolution proposes only the adoption, amendment, or repeal of regulations affecting the functions and services of special districts, it shall request that the commission do either of the following:

(1) Consider the proposal without reference to a special district advisory committee, in which case the resolution shall contain the text of the regulations proposed to be adopted, amended, or repealed.

(2) Refer the proposal to a special district advisory committee for study, report, and recommendation, in which case the resolution shall generally describe the nature of the regulations proposed to be amended, adopted, or repealed and, if then available, shall refer to a text on file with the clerk of the district for a detailed description of the regulations.

56454. If the commission adopts a resolution pursuant to subdivision (a) of Section 56453, the executive officer shall immediately call a meeting of the independent special district selection committee referred to in Section 56332. The meeting shall be held not less than 15, or more than 35, days from the adoption of the resolution by the commission. The independent special district selection committee shall meet at the time and place designated by the executive officer and shall consider the resolution adopted by the commission. By majority vote of those district representatives voting on the issue, the selection committee shall either approve or disapprove the resolution adopted by the commission. If the selection committee approves the resolution adopted by the commission, it shall immediately inform the executive officer of that action, and the commission at its next meeting shall adopt a resolution of intention pursuant to Section 56458. If the selection committee disapproves the resolution adopted by the commission, it shall immediately inform the executive officer of this action and all

further proceedings under this chapter shall cease.

56455. If an independent special district adopts a resolution pursuant to subdivision (a) of Section 56453, it shall immediately forward a copy of the resolution to the executive officer. Upon receipt of those resolutions from a majority of independent special districts within a county, the commission, at its next regular meeting, shall, by majority vote of those present and voting on the issue, either approve or disapprove special district representation on the commission. If the commission approves that representation, it shall immediately adopt a resolution of intention pursuant to Section 56458. If the commission disapproves that representation, all further proceedings under this chapter shall cease.

56456. A certified copy of any resolution which has been adopted by an independent special district pursuant to subdivision (b) of Section 56453 and a copy of the text, if any, of proposed regulations referred to in the resolution shall be filed with the executive officer. If a resolution, or substantially identical resolution, has been filed by a majority of independent special districts within the county, then, not later than 35 days after the filing, the commission shall adopt a resolution of intention in accordance with the filed resolution or resolutions.

56457. Minor changes in any existing regulation affecting special districts may be ordered by the commission, without adoption of a resolution of intention, notice, and hearing, or reference to a special district advisory committee, if the commission makes a determination that those changes will not substantially affect the functions and services of any special district subject to those regulations and that determination is concurred in by both of the commission members appointed to represent the special districts.

56458. Whenever the commission, or the independent special districts, as the case may be, have complied with the applicable provisions of Sections 56453, 56454, 56455, and 56456, the commission shall adopt a resolution of intention pursuant to this section. The resolution of intention shall do all of the following:

(a) State whether the proceedings are initiated by the commission or by an independent special district or districts, in which case, the names of those districts shall be set forth.

(b) If the resolution of intention proposes only the adoption, amendment, or repeal of regulations affecting the functions and services of special districts, it shall state that the commission proposes either of the following:

(1) To consider the proposal without reference to a special district advisory committee, in which case the resolution shall contain the text of the regulations proposed to be adopted, amended, or repealed.

(2) To refer the proposal to a special district advisory committee for study, report, and recommendation, in which case the resolution shall generally describe the nature of the regulations proposed to be amended, adopted, or repealed and, if then available, shall refer to

a text on file with the executive officer for a detailed description of the regulations.

In addition, the resolution of intention adopted pursuant to this subdivision shall also fix a time, not less than 15 or more than 35 days after the adoption of the resolution of intention, and the place of hearing by the commission on the question of whether the proposal made by the resolution should be disapproved, approved, and ordered without reference to a special district advisory committee, or referred to a special district advisory committee for study, report, and recommendation to the commission.

(c) If the resolution of intention proposes representation of special districts on the commission, it shall state that the commission proposes to refer the proposal to a special district advisory committee and the commission shall immediately order the proposal referred to that committee pursuant to Section 56461.

56459. If a hearing is called pursuant to subdivision (b) of Section 56458, the executive officer shall give notice of the hearing by publication, as provided in Sections 56153 and 56154, by posting, as provided in Sections 56158 and 56159, and by mailing to the clerk of the county and each local agency within the county, as provided in Sections 56155, 56156, and 56157.

56460. The hearing referred to in Section 56459 shall be held by the commission at the time and place specified or to which the hearing may be continued. After the conclusion of the hearing, the commission shall adopt a resolution disapproving the proposal made by the resolution of intention, approving and ordering the proposal without reference to a special district advisory committee, or ordering the proposal referred to a special district advisory committee for study, report, and recommendation.

56461. If the commission orders a proposal referred to a special district advisory committee for study, report, and recommendation, the appointment of, and proceedings by, the advisory committee shall be made and taken substantially in accordance with the provisions of Chapter 6 (commencing with Section 56475), pertaining to reorganization committees, except that the advisory committee shall not be terminated until after the commission acts upon the report and recommendation of the advisory committee. When applied to proceedings taken pursuant to this chapter:

(a) "Plan of reorganization" means a plan containing the text of regulations affecting the functions and services of special districts.

(b) "Proposal of reorganization," "reorganization," or "change of organization" means a proposal made pursuant to this chapter.

(c) "Reorganization committee" means the special district advisory committee.

(d) "Subject district" means an independent special district affected by a proposal made pursuant to this chapter.

If the commission is of the opinion that special districts, other than independent special districts, may be affected by the proposal, then, in addition to the appointment of voting members to the advisory

committee to represent independent special districts, the commission may authorize the legislative bodies of special districts, other than independent special districts, to appoint nonvoting members to the advisory committee. Any nonvoting member shall have all of the rights of a voting member except the right to vote.

56462. Where a special district advisory committee consists of voting members representing more than five independent special districts, the advisory committee may appoint an executive committee to undertake all or part of the study and may authorize the executive committee to prepare a tentative report and recommendation for submission to and approval by the full advisory committee. The executive committee shall consist of the number of voting members as the advisory committee may determine. If the commission authorizes the appointment of nonvoting members to the advisory committee, those nonvoting members may appoint members to the executive committee in numbers not exceeding those appointed by the voting members and any nonvoting member appointed to the executive committee shall have all of the rights of a voting member on the committee, except the right to vote.

Upon completion of the studies of the executive committee, the executive committee shall report to the full advisory committee and submit any tentative report and recommendation prepared by the executive committee. Thereafter, the advisory committee may reject any tentative report and recommendation submitted, may adopt any tentative report and recommendation submitted, either as submitted by the executive committee or as changed by the full advisory committee, or the advisory committee may prepare its own report and recommendation.

56463. Not later than 35 days after the filing with the executive officer of the report and recommendation of a special district advisory committee, the commission shall take one of the following actions:

(a) If the report concerns only the adoption, amendment, or repeal of regulations affecting the functions and services of special districts, the commission may do either of the following:

(1) Disapprove the report without further notice and hearing.

(2) Adopt a resolution of intention to hold a hearing on the report pursuant to subdivision (b).

(b) If the report concerns a request for special district representation on the commission and the adoption, in connection with that representation, of regulations affecting the functions and services of special districts, the commission shall adopt a resolution declaring its intention to approve the report and recommendation, as filed or as those regulations may be changed by the commission after notice and hearing on those regulations. A resolution of intention shall do all of the following:

(1) Refer to the report and recommendation of the special district advisory committee, generally describe the nature and contents of the report and recommendation, and refer to the report and

recommendation on file with the executive officer for a detailed description report and recommendation.

(2) Declare the intention of the commission to approve the recommendation and report, as filed or as those regulations may be changed by the commission after notice and hearing.

(3) Fix a time, not less than 15 days, or more than 35 days, after the adoption of the resolution of intention, and the place of hearing by the commission, on the question of whether the report and recommendation filed by the special district advisory committee should be approved, either as filed or as ordered changed by the commission after notice and hearing.

56464. The executive officer shall give notice of the hearing by publication, as provided in Sections 56153 and 56154, by posting, as provided in Sections 56158 and 56159, and by mailing to the clerk of the county and each local agency within the county, as provided in Sections 56155, 56156, and 56157.

56465. The hearing shall be held by the commission at the time and place specified or to which the hearing may be continued. During the course of the hearing, the commission may propose changes in the report and recommendations. Any proposed changes shall be referred, for review, to the special district advisory committee, or if the advisory committee has appointed an executive committee, to that executive committee. The advisory committee, or the executive committee, shall have 60 days to report back to the commission. If no report is received by the commission within 60 days, the advisory committee shall be deemed to have approved the proposed changes in the report and recommendation.

Within 30 days after the conclusion of the hearing, the commission shall adopt a resolution approving the report and recommendation, either as filed or as those regulations may be changed by the commission.

56466. Any resolution approving the report and recommendation of a special district advisory committee, either as filed or as changed by the commission, shall order both of the following:

(a) The adoption, amendment, or repeal of regulations, in accordance with the recommendations of the approved report.

(b) The chairperson of the commission to call and give notice of a meeting of the independent special district selection committee to be held within 15 days after the adoption of the resolution in order to select special district representatives on the commission pursuant to Section 56332.

CHAPTER 6. REORGANIZATION PLANS

56475. A reorganization or a plan of reorganization shall provide for one or more changes of organization of any type for each of the subject districts and may provide for the formation of one or more new districts pursuant to the principal act or acts designated in the reorganization or plan of reorganization. Chapter 2 (commencing

with Section 58500) of Division 2 of Title 6 does not apply to the formation of a district made pursuant to a reorganization or plan of reorganization.

56476. Upon the presentation of any petition or applications making a proposal for a reorganization, the commission may take proceedings pursuant to Part 3 (commencing with Section 56650) without referring the proposal to a reorganization committee, as provided in this part.

56477. Before any proposal for reorganization is referred to any reorganization committee, the commission may provide for a public hearing on the question of whether the proposal should be disapproved or referred to a reorganization committee and set a time and place for that hearing.

56478. The executive officer shall give notice of that hearing by publication, as provided in Sections 56153 and 56154, and by posting, as provided in Sections 56158 and 56159.

56479. The executive officer shall also give mailed notice of any hearing, as provided in Sections 56155 to 56157, inclusive, by mailing notice of hearing to all of the following persons and entities:

(a) Each affected city and affected district.

(b) The chief petitioners, if any.

(c) Each person who has filed a written request for special notice with the executive officer.

56480. The hearing shall be held by the commission on the date and at the time and place specified in the notice. After the conclusion of the hearing, the commission shall adopt a resolution doing either of the following:

(a) Disapproving the proposal of reorganization.

(b) Ordering the proposal referred to a reorganization committee for study, report, and recommendation.

56481. The commission may accept contributions from any source for the purpose of paying the expenses of a reorganization committee in the conduct of its study, report, and recommendation. Any affected county, affected city, or affected district may make contributions for that purpose. The commission and any affected county, affected city, or affected district may make any of its facilities available for the use of a reorganization committee and may authorize any of its officers and employees to furnish advice, assistance, or services to the committee.

56482. Any resolution adopted by the commission ordering a proposal of reorganization referred to a reorganization committee shall do all of the following:

(a) Describe the proposed reorganization and designate the subject districts (the description and designation may be by reference to the proposal).

(b) Specify the maximum number of members, not to exceed three, to represent each subject district on the committee.

(c) Fix a time and place for the first meeting of the reorganization committee.

(d) Designate a date, not less than 60 days from the date of the first meeting of the committee, for the completion and submission to the commission of the report and recommendation of the committee.

56483. From time to time during the course of study upon a proposed plan of reorganization, the commission may do any of the following:

(a) Extend the time for completion and submission of the report and recommendation of a reorganization committee.

(b) Change the scope of the study by the addition or deletion of territory or of subject districts.

(c) Authorize the committee to develop, study, report, and make recommendations upon alternative plans of reorganization.

56484. At least 15 days before the date of the first meeting of a reorganization committee, the executive officer shall mail a copy of the resolution adopted by the commission to each subject district designated in the resolution.

56485. Any person, including, but not limited to, a member of the legislative body of a subject district and an officer or employee of the district, may be appointed as a member to represent the district upon a reorganization committee.

56486. The legislative body of each subject district shall appoint one or more members, not to exceed the maximum number specified by the commission, to represent the district on the reorganization committee. That legislative body may from time to time remove and replace any member previously appointed by it and may fill any vacancy in its membership upon the committee.

56487. The clerk of a subject district shall give immediate notice to the executive officer of all appointments and removals made by the legislative body to a reorganization committee.

56488. At any time after the date fixed for the first meeting of a reorganization committee or during the course of the study by the committee, if the legislative body of any subject district, after written request by the executive officer, does not appoint any members to the committee, those members may be appointed by the commission.

56489. If, during the course of study upon a proposed plan of reorganization, the commission authorizes a change in the scope of the study, the membership of the reorganization committee shall be immediately changed to exclude representatives of each district or city for which a change of organization is no longer proposed and to include representatives of each district or city for which a new change of organization is proposed.

56490. Subject to any standards and procedures adopted by regulation by the commission, a reorganization committee shall provide for the selection of a presiding officer and secretary either of whom may but are not required to be members of the committee, adopt the standards and procedures which it deems advisable, fix the time and place for meetings of the committee, and determine the

manner and method to be followed by the committee in its study, report, and recommendation.

56491. A quorum shall be deemed to be present at a meeting of a reorganization committee if members representing one-half or more of the subject districts are present. Each subject district shall be entitled to one vote at any reorganization committee meeting, which vote shall be determined by a majority of the members of the district present at the meeting.

56492. If a reorganization committee does not complete and submit its report and recommendation before the date specified by the commission or, prior to that date, if members of the committee representing one-half or more of the subject districts report to the commission that the committee is unable to agree upon the report and recommendation, the commission may either order the discharge of the committee, or appoint additional members to the committee, not to exceed the maximum number authorized for a single subject district, to represent the public and order the committee, as so enlarged, to continue its study.

56493. If the commission orders the discharge of a reorganization committee, the commission may make a study, report, and recommendation upon a plan of reorganization in the place of the reorganization committee.

56494. If the commission appoints additional members to the reorganization committee to represent the public and orders the reorganization committee, as so enlarged, to continue its study, the additional members shall have all of the rights and powers of members representing a single subject district, including participation in all studies, reports, and recommendations, attendance at all meetings, and the casting of a single vote on behalf of all of the additional members on any matter before the committee.

56495. Every officer of any affected county, affected city, or affected district shall make available to a reorganization committee any records, reports, maps, data, or other documents which in any way affect or pertain to the committee's study, report, and recommendation and shall confer with the committee concerning the problems and affairs of that county, city, or district.

56496. Upon completion of the study of a reorganization committee, the committee shall prepare and submit to the commission a report and recommendation containing all of the following:

(a) A brief summary of the nature and extent of the study of the committee.

(b) A full and complete description of the plan of reorganization and any alternative plans of reorganization which were studied by the committee.

(c) The recommendation of the committee for the approval or disapproval of all or any part of the plan of reorganization and of any alternative plans of reorganization.

56497. Approval by a reorganization committee of the report and

recommendation shall require the affirmative vote of more than one-half of the subject districts represented on the reorganization committee.

56498. The reorganization committee shall file the original of its report and recommendation with the executive officer and a copy of the report and recommendation with the clerk of each subject district. Upon filing that report and recommendation with the executive officer, the reorganization committee shall be terminated. However, the commission may cause the committee to be reconvened at any time for the sole purpose of correcting or clarifying any error, omission, or uncertainty appearing in the report and recommendation, as determined by the commission.

PART 3. COMMISSION PROCEEDINGS FOR CHANGES OF ORGANIZATION OR REORGANIZATION

CHAPTER 1. GENERAL

56650. Commission proceedings for a change of organization or a reorganization may be initiated by petition or by resolution of application in accordance with this chapter.

56651. Commission proceedings shall be deemed initiated on the date a petition or resolution of application is accepted for filing and a certificate of filing is issued by the executive officer of the commission of the county in which the affected territory is located.

56652. Each application shall be in the form as the commission may prescribe and shall contain all of the following information:

(a) A petition or resolution of application initiating the proposal.

(b) A statement of the nature of each proposal.

(c) A map and description, acceptable to the executive officer, of the boundaries of the subject territory for each proposed change of organization or reorganization.

(d) Any data and information as may be required by any regulation of the commission.

(e) Any additional data and information, as may be required by the executive officer, pertaining to any of the matters or factors which may be considered by the commission.

(f) The names of the officers or persons, not to exceed three in number, who are to be furnished with copies of the report by the executive officer and who are to be given mailed notice of the hearing.

56653. (a) Whenever a local agency submits a resolution of application for a change of organization or reorganization pursuant to this part, the local agency shall submit with the resolution of application a plan for providing services within the affected territory.

(b) The plan for providing services shall include all of the following information and any additional information required by the commission or the executive officer:

(1) An enumeration and description of the services to be extended to the affected territory.

(2) The level and range of those services.

(3) An indication of when those services can feasibly be extended to the affected territory.

(4) An indication of any improvement or upgrading of structures, roads, sewer or water facilities, or other conditions the local agency would impose or require within the affected territory if the change of organization or reorganization is completed.

(5) Information with respect to how those services will be financed.

56654. The commission may, after giving public notice and holding a hearing, establish a schedule of processing fees for the estimated expenses of the proceedings to be taken by the commission and any reorganization committee. Those fees shall not exceed the estimated reasonable cost of providing that service, or one thousand five hundred dollars ($1,500), whichever is less, for each separate change of organization contained in a proposal. These fees shall be imposed pursuant to Chapter 13 (commencing with Section 54990) of Part 1 of Division 2. The processing fee shall be deposited with the executive officer after the filing with the executive officer of any resolution of application by the legislative body of a local agency or the certification by the executive officer of the sufficiency of a petition. The deposit of the processing fee shall be made within the period specified by the commission. No further action shall be taken upon any resolution of application or petition until the processing fee is deposited.

56655. A commission may, after giving public notice and holding a hearing, establish a schedule of filing fees for checking the sufficiency of any petition filed with the executive officer. Those fees shall not exceed the estimated reasonable cost of providing that service, or fifty cents ($0.50), whichever is less, for each signature affixed to the petition. A minimum filing fee of not to exceed ten dollars ($10) may be established. These fees shall be imposed pursuant to Chapter 13 (commencing with Section 54990) of Part 1 of Division 2. Any fees so established shall be paid to the executive officer at the time of filing a petition. No petition shall be deemed filed until those fees have been paid.

CHAPTER 2. FORM, FILING, AND CERTIFICATION OF PETITION

56700. A proposal for a change of organization or a reorganization may be made by petition. The petition shall do all of the following:

(a) State that the proposal is made pursuant to this part.

(b) State the nature of the proposal and list all proposed changes of organization.

(c) Set forth a description of the boundaries of the affected territory accompanied by a map showing the boundaries.

(d) Set forth any proposed terms and conditions.

(e) State the reason or reasons for the proposal.

(f) State whether the petition is signed by registered voters or owners of land.

(g) Designate not to exceed three persons as chief petitioners, setting forth their names and mailing addresses.

(h) Request that proceedings be taken for the proposal pursuant to this part.

56701. If a petition is for incorporation of a new city, consolidation of cities or districts, or formation of a new district, the petition may propose a name for the new or consolidated city or district.

The proposed name for the new or consolidated city may contain the word "town."

56702. If the petition is for incorporation, it may also include provisions for appointment of a city manager and appointment of elective city officials, except city council members.

56703. A petition may consist of a single instrument or separate counterparts. All petitions shall be filed with the executive officer. All counterparts of a petition or of any supplemental petition, shall be filed at the same time.

56704. (a) Each person signing a petition shall, at the time he or she signs the petition, affix after his or her signature the date upon which he or she signs the petition.

(b) If a petition is signed by registered voters, each person signing the petition shall, in addition to his or her signature, affix the date upon which he or she signs the petition and indicate on the petition his or her place of residence, giving street and number or other designation sufficient to enable the place of residence to be readily ascertained.

(c) If a petition is signed by owners of land, each person signing the petition shall, in addition to the signature and the date on which he or she signs the petition, include a written description sufficient to identify the location of the land owned by each person signing the petition.

56705. No petition shall be accepted for filing unless the signatures on the petition are secured within six months of the date on which the first signature on the petition was affixed and the petition is submitted to the executive officer for filing within 60 days after the last signature is affixed. If the elapsed time between the date on which the last signature is affixed and the date on which the petition is submitted for filing is more than 60 days, the executive officer shall file the petition in accordance with Section 56709.

56706. Within 30 days after the date of filing a petition, the executive officer shall, if any processing fee established pursuant to Section 56654 has been paid, cause the petition to be examined and shall prepare a certificate of sufficiency indicating whether the petition is signed by the requisite number of signers.

If the certificate of the executive officer shows the petition to be insufficient, the executive officer shall immediately give notice by certified mail of the insufficiency to the chief petitioners, if any. That

mailed notice shall state in what amount the petition is insufficient. Within 15 days after the date of the notice of insufficiency, a supplemental petition bearing additional signatures may be filed with the executive officer.

Within 10 days after the date of filing a supplemental petition, the executive officer shall examine the supplemental petition and certify in writing the results of his or her examination.

A certificate of sufficiency shall be signed by the executive officer and dated. That certificate shall also state the minimum signature requirements for a sufficient petition and show the results of the executive officer's examination. The executive officer shall mail a copy of the certificate of sufficiency to the chief petitioners, if any.

56707. If a petition is signed by registered voters, the executive officer shall cause the names of the signers on the petition to be compared with the voters' register in the office of the county clerk or registrar of voters and ascertain both of the following:

(a) The number of registered voters in the affected territory.

(b) The number of qualified signers appearing upon the petition.

56708. If a petition is signed by owners of land, the executive officer shall cause the names of the signers on the petition to be compared with the names of the persons shown as owners of land on the last equalized assessment roll of the county and ascertain, to the extent possible, both of the following:

(a) The total number of landowners within the territory and the total assessed valuation of all land within the affected territory.

(b) The total number of landowners represented by qualified signers and the total assessed valuation of land owned by qualified signers.

56709. If the petition, including any supplemental petition, is certified to be insufficient, it shall be filed with the executive officer as a public record, without prejudice to the filing of a new petition. The executive officer shall give mailed notice to the chief petitioners, if any, stating that the petition has been found to be insufficient.

56710. For purposes of evaluating the sufficiency of any petition signed by owners of land:

(a) The assessed value to be given land exempt from taxation or owned by a public agency shall be determined by the county assessor, at the request of the executive officer, in the same amount as the county assessor would assess that land, if the land were not exempt from taxation or owned by a public agency.

(b) The value given land held in joint tenancy or tenancy in common shall be determined in proportion to the proportionate interest of the petitioner in that land.

(c) The executive officer shall disregard the signature of any person not shown as owner on the last equalized assessment roll unless prior to certification the executive officer is furnished with written evidence, satisfactory to the executive officer, that the signer meets any of the following requirements:

(1) Is a legal representative of the owner.

(2) Is entitled to be shown as owner of land on the next assessment roll.

(3) Is a purchaser of land under a recorded written agreement of sale.

(4) Is authorized to sign for, and on behalf of, any public agency owning land.

56711. Any public or federal agency owning land within the territory which is the subject of the proposed change of organization or reorganization shall be deemed a landowner for the purpose of the signing and certification of a petition for the change of organization or reorganization. That agency may authorize the petition to be signed for the agency, and on behalf of the agency, by any duly authorized officer or employee.

CHAPTER 3. SIGNATURE REQUIREMENTS FOR PETITIONS

56750. A petition for the incorporation of a city shall be signed by either of the following:

(a) Not less than 25 percent of the registered voters residing in the area to be incorporated, as determined by the commission pursuant to subdivision (h) of Section 56375.

(b) Not less than 25 percent of the number of owners of land within the territory proposed to be incorporated who also own not less than 25 percent of the assessed value of land within the territory proposed to be incorporated, as shown on the last equalized assessment roll of the county.

56751. A petition for the disincorporation of a city shall be signed by not less than 25 percent of the registered voters residing in the city proposed to be disincorporated as shown on the county register of voters.

56752. A petition for the consolidation of two or more cities shall be signed by not less than 20 percent of the registered voters of each affected city as shown on the county register of voters.

56753. A petition for annexation of territory to a city shall be signed by either of the following:

(a) Not less than 5 percent of the number of registered voters residing within the territory proposed to be annexed as shown on the county register of voters.

(b) Not less than 5 percent of the number of owners of land within the territory proposed to be annexed who also own 5 percent of the assessed value of land within the territory as shown on the last equalized assessment roll.

56754. A petition for detachment of territory from a city shall be signed by either of the following:

(a) Not less than 20 percent of the registered voters residing within the territory proposed to be detached, as shown on the county register of voters.

(b) Not less than 20 percent of the number of owners of land within the territory proposed to be detached who also own 20

percent of the assessed value of land within the territory, as shown on the last equalized assessment roll.

56755. Petitions for the annexation of territory to, or detachment of territory from, a district shall be signed as follows:

(a) For a registered voter district, by either of the following:

(1) Not less than 5 percent of the registered voters within the territory proposed to be annexed or detached.

(2) Not less than 5 percent of the number of landowners within the territory proposed to be annexed or detached who also own not less than 5 percent of the assessed value of land within the territory.

(b) For a landowner-voter district, by not less than 5 percent of the number of landowners owning land within the territory proposed to be annexed or detached who also own not less than 5 percent of the assessed value of land within the territory.

56756. If a proposal for formation of a new district is made by petition, the petition shall comply with the signature requirements and content of a petition for formation of the district as set forth in the principal act under which the new district is proposed to be formed.

56757. Petitions for the consolidation of two or more districts shall be signed as follows:

(a) For registered voter districts, by not less than 5 percent of the registered voters within each of the several districts.

(b) For landowner-voter districts, by landowner-voters within each of the several districts constituting not less than 5 percent of the number of landowner-voters owning land within each of the several districts and who also own not less than 5 percent of the assessed value of land within each of the several districts.

56758. Except as otherwise provided in Section 56759, petitions for the dissolution of a district shall be signed as follows:

(a) For resident voter districts, by either of the following:

(1) Not less than 5 percent of the registered voters within the district.

(2) Not less than 5 percent of the number of landowners within the district who also own not less than 5 percent of the assessed value of land within the district.

(b) For landowner-voter districts, by not less than 5 percent of the number of landowner-voters within the district who also own not less than 5 percent of the assessed value of land within the district.

56759. A petition for the dissolution of a registered voter district, signed by three or more registered voters within the district or by three or more landowners within a landowner-voter district, shall be deemed to be a sufficient petition, if, in addition to the matters required by Section 56700, the petition recites that the district has been in existence for at least three years and states, on information and belief, that the corporate powers of the district have not been used and that one or more of the following conditions have existed or now exist:

(a) That during the three-year period preceding the date of the

first signature upon the petition any of the following events have not occurred:

(1) There has not been a duly selected and acting quorum of the board of directors of the district.

(2) The board of directors has not furnished or provided services or facilities of substantial benefit to residents, landowners, or property within the district.

(3) The board of directors has not levied or fixed and collected any taxes, assessments, service charges, rentals, or rates or expended the proceeds of those levies or collections for district purposes.

(b) That during the one-year period preceding the date of the first signature upon the petition a quorum of the duly selected and acting board of directors has not met for the purpose of transacting district business.

(c) That, upon the date of the first signature upon the petition, the district had no assets, other than money in the form of cash, investments, or deposits.

56760. Petitions for a merger of a district of limited powers which overlaps a city, or for the establishment of the district as a subsidiary district of the city, shall be signed as follows:

(a) For a resident voter district, by either of the following:

(1) Five percent of the registered voters of the district.

(2) Five percent of the registered voters residing within the territory of the city outside the boundaries of the district.

(b) For a landowner-voter district, by either of the following:

(1) Five percent of the number of landowner-voters within the district who also own not less than 5 percent of assessed value of land within the district.

(2) Five percent of the registered voters residing within the territory of the city outside the boundaries of the district.

56761. (a) A petition for reorganization shall be signed so as to comply with the applicable signature requirements of this article with respect to each of the various changes proposed in the petition.

(b) If a proposal for reorganization includes a proposal for the formation of a new district, the petition shall comply with the signature requirements, if any, of a petition for formation of the district, as set forth in the principal act designated in the petition for formation, and if there are no such requirements, then the requirements of this part pertaining to dissolution.

(c) If a proposal for reorganization includes incorporation, the petition shall comply with the signature requirements for incorporation.

56762. If a person is qualified to sign for two or more of the changes of organization proposed by the petition, that person need sign the petition only once and his or her signature shall be counted as if that person had signed and requested each change of organization.

CHAPTER 4. RESOLUTION OF APPLICATION

56800. A proposal for a change of organization or a reorganization may be made by the adoption of a resolution of application by the legislative body of an affected local agency.

Except for the provisions regarding signers and signatures, a resolution of application shall contain all of the matters specified for a petition in Section 56700 and shall be submitted with a plan for services prepared pursuant to Section 56653.

56801. Prior to submitting a resolution of application for the annexation of territory described in subdivision (d) of Section 56375 to the commission, the legislative body adopting the resolution shall conduct a public hearing on the resolution. Notice of the hearing shall be published pursuant to Sections 56153 and 56154. At the hearing, any landowner shall be given an opportunity to present his or her views on the resolution.

56802. The clerk of the legislative body adopting a resolution of application shall file a certified copy of that resolution with the executive officer.

CHAPTER 5. COMMISSION PROCEEDINGS

56825. The commission shall have the powers and duties set forth in Part 2 (commencing with Section 56300) and the additional powers and duties specified in this chapter.

56826. (a) The commission shall not review a reorganization which includes an annexation to any city in Santa Clara County of unincorporated territory which is within the urban service area of the city if the reorganization is initiated by resolution of the legislative body of the city.

(b) The city council shall be the conducting authority for the reorganization and the proceedings for the reorganization shall be initiated and conducted as nearly as may be practicable in accordance with Part 4 (commencing with Section 57000).

The city council, in adopting the resolution approving the reorganization, shall make all of the following findings:

(1) That the unincorporated territory is within the urban service area of the city as adopted by the commission.

(2) That the county surveyor has determined the boundaries of the proposal to be definite and certain, and in compliance with the road annexation policies of the commission. The city shall reimburse the county for the actual costs incurred by the county surveyor in making this determination.

(3) That the proposal does not split lines of assessment or ownership.

(4) That the proposal does not create islands or areas in which it would be difficult to provide municipal services.

(5) That the proposal is consistent with the adopted general plan of the city.

(6) That the territory is contiguous to existing city limits.

(7) That the city has complied with all conditions imposed by the commission for inclusion of the territory in the urban service area of the city.

(c) All reorganizations which involve territory for which the land use designation in the general plan of the city has changed from the time that the urban service area of the city was last adopted by the commission, and which are processed by a city pursuant to this section shall be subject to an appeal to the commission upon submission of a petition of appeal, signed by at least 50 registered voters in the county.

(d) An appeal to the commission may also be made by submission of a resolution of appeal adopted by the legislative body of a special district solely for the purpose of determining whether some or all of the territory contained in the reorganization proposal should also be annexed or detached from that special district.

(e) Any petition submitted under subdivision (c) or resolution submitted under subdivision (d) shall be submitted to the executive officer within 15 days of the adoption by the city council of the resolution approving the annexation. The executive officer shall schedule the hearing for the next regular meeting of the commission as is practicable. The commission may set a reasonable appeal fee.

(f) This section shall remain in effect only until January 1, 1989, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1989, deletes or extends that date.

56827. If two or more proposals pending before the commission conflict or in any way are inconsistent with each other, as determined by the commission, the commission may determine the relative priority for conducting any further proceedings based on any of those proposals. That determination shall be included in the terms and conditions imposed by the commission. In the absence of that determination, priority is given to that proceeding which shall be based upon the proposal first filed with the executive officer.

56828. Any petitioner or legislative body desiring to initiate proceedings shall submit an application to the executive officer of the principal county. Except when a commission is the lead agency pursuant to Section 21067 of the Public Resources Code, the executive officer shall determine within 30 days of receiving an application whether the application is complete and acceptable for filing or incomplete. If the appropriate fees have been paid, an application shall be deemed accepted for filing if no determination has been made by the executive officer within the 30-day period. An executive officer shall accept for filing, and file, any application submitted in the form prescribed by the commission and containing all of the information and data required pursuant to Section 56652. When an application is accepted for filing, the executive officer shall immediately issue a certificate of filing to the applicant. A certificate of filing shall be in the form prescribed by the executive officer and shall specify the date upon which the proposal shall be heard by the

commission. From the date of issuance of a certificate of filing, or the date upon which an application is deemed to have been accepted, whichever is earlier, an application shall be deemed filed pursuant to this division. If an application is determined not to be complete, the executive officer shall immediately transmit that determination to the applicant specifying those parts of the application which are incomplete and the manner in which they can be made complete.

Following the issuance of the certificate of filing, the executive officer shall proceed to set the proposal for hearing and give published notice thereof as provided in this part. The date of the hearing shall be not more than 90 days after issuance of the certificate of filing or after the application is deemed to have been accepted, whichever is earlier. The date for conducting the hearing, as determined pursuant to the preceding sentence, is mandatory. If a special district is, or as a result of a proposed formation or annexation will be, located in more than one county, the executive officer of the principal county shall immediately furnish a copy of any application accepted for filing by that executive officer to the executive officer of each such other county.

56829. (a) Within 10 days after receiving a proposal to form a subsidiary district, the executive officer shall notify by certified mail the district or districts which are the subject of the proposal.

(b) Within 35 days after receiving the notice from the executive officer, the board of directors of the subject district or districts may do either of the following:

(1) Adopt a resolution consenting to the subsidiary district proposal, with or without requesting additional terms and conditions.

(2) Adopt a resolution of intention to file an alternative proposal to the subsidiary district proposal.

(c) Any resolution adopted under paragraph (1) or (2) of subdivision (b) shall immediately be filed with the executive officer.

(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.

56830. (a) If a district files a resolution of intention to file an alternative proposal pursuant to paragraph (2) of subdivision (b) of Section 56829, the executive officer shall take no further action on the original proposal to form a subsidiary district for a period of 70 days. During this period, the district which has filed a resolution of intention shall prepare and submit a completed application for the alternative proposal in a form similar to the original proposal, as prescribed by the commission.

(b) A district which has filed a resolution of intention to file an alternative proposal but which does not file a completed application within the prescribed time period, shall be deemed to have consented to the original proposal to form a subsidiary district.

(c) After receiving an alternative proposal, the executive officer shall analyze and report on both the original proposal and the alternative proposal concurrently and set both for hearing by the

commission in order that both proposals may be considered simultaneously at a single hearing.

(d) "Alternative proposal," as used in this section, means an alternative proposal to a subsidiary district proposal as provided for in Section 56829.

(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.

56831. (a) Within 35 days following the conclusion of a hearing on an original and an alternative proposal to form a subsidiary district, the commission shall adopt its resolution of determination, which shall do one of the following:

(1) Deny both the original proposal and the alternative proposal.

(2) Approve both the original proposal and the alternative proposal.

(3) Approve one proposal and deny the other.

(b) If the commission approves both proposals, it shall adopt an order directing the board of supervisors to consider both proposals at a single hearing and to do one of the following:

(1) Deny both the original proposal and the alternative proposal.

(2) Approve both the original proposal and the alternative proposal.

(3) Approve one proposal and deny the other.

(c) "Alternative proposal," as used in this section, means an alternative proposal to a subsidiary district proposal as provided for in Section 56829.

(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.

56832. If any sufficient petition or resolution of application shall propose, as a part of the petition or resolution of application, that the district shall furnish gas or electric service, as provided in Sections 56129 to 56131, inclusive, a certified copy of the report of the Public Utilities Commission shall be on file with the executive officer prior to setting that petition or resolution for public hearing by the commission.

56833. The executive officer shall review each application which is filed with the executive officer and shall prepare a report, including his or her recommendations, on the application. The report shall be completed not less than five days prior to the date specified in the notice of hearing. Upon completion, the executive officer shall furnish copies of the report to the officers or persons designated in the application, to each affected local agency and where a district is, or will be, located in more than one county, to the executive officer of each other affected county.

56834. The executive officer shall give notice of any hearing by the commission by publication, as provided in Sections 56153 and 56154, and by posting, as provided in Sections 56158 and 56159.

56835. The executive officer shall also give mailed notice of any

hearing by the commission, as provided in Sections 56155 to 56157, inclusive, by mailing notice of the hearing to all of the following persons and entities:

(a) To each affected local agency.

(b) To the chief petitioners, if any.

(c) To each person who has filed a written request for special notice with the executive officer.

(d) If the proposal is for any annexation or detachment, or for a reorganization providing for the formation of a new district, to each city within three miles of the exterior boundaries of the territory proposed to be annexed, detached, or formed into a new district.

(e) If the proposal is to incorporate a new city or for the formation of a district, to the affected county.

56836. (a) The commission may make either of the following determinations without notice and hearing:

(1) Subject to the limitations of Section 56837, approval or disapproval of a proposal for an annexation, detachment, or reorganization which consists solely of annexations or detachments, or both.

(2) Subject to the limitations of Section 56837, approval or disapproval of the formation of a county service area.

(b) Except for the determinations authorized to be made by subdivision (a), the commission shall not make any determinations upon any proposal, plan of reorganization, or report and recommendation of a reorganization committee until after public hearing by the commission on that proposal, plan of reorganization, or report and recommendation of a reorganization committee.

56837. (a) If a petition for an annexation, a detachment, or a reorganization consisting solely of annexations or detachments, or both, or the formation of a county service area is signed by all of the owners of land within the affected territory of the proposed change of organization or reorganization, or if a resolution of application by a legislative body of an affected district, affected county, or affected city making a proposal for an annexation or detachment, or for a reorganization consisting solely of annexations or detachments, or both, or the formation of a county service area is accompanied by proof, satisfactory to the commission, that all the owners of land within the affected territory have given their written consent to that change of organization or reorganization, the commission may approve or disapprove the change of organization or reorganization, without notice and hearing by the commission. In those cases, the commission may also approve and authorize the conducting authority to conduct proceedings for the change of organization or reorganization under any of the following conditions:

(1) Without notice and hearing.

(2) Without an election.

(3) Without notice, hearing, or an election.

(b) The executive officer shall give any district or city whose boundaries would be changed by a proposed change of organization

or reorganization which could be subject to the provisions of this section mailed notice of the filing of the petition or resolution of application initiating proceedings by the commission. The commission shall not, without the written consent of the district or city whose boundaries would be changed by the proposed change of organization or reorganization, take any further action on the petition or resolution of application for 10 days following that mailing. Upon written demand by an affected district or affected city, filed with the executive officer during that 10-day period, the commission shall make determinations upon the petition or resolution of application only after notice and hearing on the petition or resolution of application. If no written demand is filed, the commission may make those determinations without notice and hearing. By written consent, which may be filed with the executive officer at any time, a district or city may do any of the following:

(1) Waive the requirement of mailed notice.

(2) Consent to the commission making determinations without notice and hearing.

(3) Waive the requirement of mailed notice and consent to the commission making determinations without notice and hearing.

56838. Where the commission desires to provide for notice and hearing prior to making a determination on a matter which the commission is authorized, but not required, to determine without notice and hearing, the commission shall order a public hearing on that matter and set a date, time, and place for the hearing. The date of hearing shall not be more than 90 days after the date of the order.

56839. (a) If a majority of the members of each of the legislative bodies of two or more districts adopt substantially similar resolutions of application making proposals either for the consolidation of all the districts or for the reorganization of all or any part of the districts into a single district, the commission shall approve, or conditionally approve, the proposal. The commission shall authorize the board of supervisors to order the consolidation or reorganization without an election, except as otherwise provided in subdivision (b) of Section 57081.

(b) Before ordering any material change in the provisions or the terms and conditions of the consolidation or reorganization, as set forth in the proposals of the districts, the commission shall direct the executive officer to give each district mailed notice of that change. The commission shall not, without the written consent of all districts, take any further action on the consolidation or reorganization for 30 days following that mailing. Upon written demand by any of the districts, filed with the executive officer during that 30-day period, the commission shall make determinations upon the proposals only after notice and hearing proposals. If no written demand is filed, the commission may make those determinations without notice and hearing.

56840. (a) The hearing shall be held by the commission upon the date and at the time and place specified. The hearing may be

continued from time to time but not to exceed 70 days from the date specified in the original notice.

(b) At the hearing, the commission shall hear and receive any oral or written protests, objections, or evidence which shall be made, presented, or filed, and consider the report of the executive officer and the plan for providing services to the territory prepared pursuant to Section 56653.

56841. Factors to be considered in the review of a proposal shall include, but not be limited to, all of the following:

(a) Population, population density; land area and land use; per capita assessed valuation; topography, natural boundaries, and drainage basins; proximity to other populated areas; the likelihood of significant growth in the area, and in adjacent incorporated and unincorporated areas, during the next 10 years.

(b) Need for organized community services; the present cost and adequacy of governmental services and controls in the area; probable future needs for those services and controls; probable effect of the proposed incorporation, formation, annexation, or exclusion and of alternative courses of action on the cost and adequacy of services and controls in the area and adjacent areas.

"Services," as used in this subdivision, refers to governmental services whether or not the services are services which would be provided by local agencies subject to this division, and includes the public facilities necessary to provide those services.

(c) The effect of the proposed action and of alternative actions, on adjacent areas, on mutual social and economic interests, and on the local governmental structure of the county.

(d) The conformity of both the proposal and its anticipated effects with both the adopted commission policies on providing planned, orderly, efficient patterns of urban development, and the policies and priorities set forth in Section 56377.

(e) The effect of the proposal on maintaining the physical and economic integrity of agricultural lands, as defined by Section 56016.

(f) The definiteness and certainty of the boundaries of the territory, the nonconformance of proposed boundaries with lines of assessment or ownership, the creation of islands or corridors of unincorporated territory, and other similar matters affecting the proposed boundaries.

(g) Consistency with city or county general and specific plans.

(h) The sphere of influence of any local agency which may be applicable to the proposal being reviewed.

(i) The comments of any affected local agency.

56842. (a) If the proposal includes the incorporation of a city, as defined in Section 56043, or the formation of a district, as defined in Section 2215 of the Revenue and Taxation Code, the commission shall, pursuant to the provisions of subdivision (b), determine the amount of property tax revenue to be exchanged by the affected local agency.

(b) In making its determination as required by subdivision (a),

the commission shall do all of the following:

(1) Request the county auditor to determine the proportion that the amount of property tax revenue derived by each affected local agency pursuant to subdivision (b) of Section 2237 of the Revenue and Taxation Code bears to the total amount of revenue from all sources, available for general purposes, received by each affected local agency in the prior fiscal year.

(2) Determine, based on information submitted by each affected local agency, an amount equal to the total cost to each affected local agency during the prior fiscal year of providing those services which the new jurisdiction will assume within the area subject to the proposal.

(3) Multiply the amount determined pursuant to paragraph (2) for each affected local agency by the corresponding proportion determined pursuant to paragraph (1) to derive the amount of property tax revenue used to provide services by each affected local agency during the prior fiscal year within the area subject to the proposal.

(c) Following the approval of a proposal subject to this section, the executive officer shall notify the auditor of the amount determined in paragraph (3) of subdivision (b).

56843. (a) In any commission order giving approval to any change of organization or reorganization, the commission may make that approval conditional upon any of the following factors:

(1) Any of the conditions set forth in Section 56844.

(2) The initiation, conduct, or completion of proceedings for another change of organization or a reorganization.

(3) The approval or disapproval, with or without election, as may be provided by this division, of any resolution or ordinance ordering that change of organization or reorganization.

(b) If the commission so conditions its approval, the commission may order that any further action pursuant to this division be continued and held in abeyance for the period of time designated by the commission, not to exceed six months from the date of that conditional approval.

(c) The commission order may also provide that any election called upon any change of organization or reorganization shall be called, held, and conducted before, upon the same date as, or after the date of any election to be called, held, and conducted upon any other change of organization or reorganization.

(d) The commission order may also provide that in any election at which the questions of annexation and district reorganization or incorporation and district reorganization are to be considered at the same time, there shall be a single question appearing on the ballot upon the issues of annexation and district reorganization or incorporation and district reorganization.

56844. Any change of organization or reorganization may provide for, or be made subject to one or more of, the following terms and conditions. However, none of the following terms and conditions

shall directly regulate land use, property development, or subdivision requirements:

(a) The payment of a fixed or determinable amount of money, either as a lump sum or in installments, for the acquisition, transfer, use or right of use of all or any part of the existing property, real or personal, of any city, county, or district.

(b) The levying or fixing and the collection of any of the following, for the purpose of providing for any payment required pursuant to subdivision (a):

(1) Special, extraordinary, or additional taxes or assessments.

(2) Special, extraordinary, or additional service charges, rentals, or rates.

(3) Both taxes or assessments and service charges, rentals, or rates.

(c) The imposition, exemption, transfer, division, or apportionment, as among any affected cities, affected counties, affected districts, and affected territory of liability for payment of all or any part of principal, interest, and any other amounts which shall become due on account of all or any part of any outstanding or then authorized but thereafter issued bonds, including revenue bonds, or other contracts or obligations of any city, county, district, or any improvement district within a local agency, and the levying or fixing and the collection of any (1) taxes or assessments, or (2) service charges, rentals, or rates, or (3) both taxes or assessments and service charges, rentals, or rates, in the same manner as provided in the original authorization of the bonds and in the amount necessary to provide for that payment.

(d) If, as a result of any term or condition made pursuant to subdivision (c), the liability of any affected city, affected county, or affected district for payment of the principal of any bonded indebtedness is increased or decreased, the term and condition may specify the amount, if any, of that increase or decrease which shall be included in, or excluded from, the outstanding bonded indebtedness of any such entity for the purpose of the application of any statute or charter provision imposing a limitation upon the principal amount of outstanding bonded indebtedness of the entity.

(e) The formation of a new improvement district or districts or the annexation or detachment of territory to, or from, any existing improvement district or districts.

(f) The incurring of new indebtedness or liability by, or on behalf of, all or any part of any local agency, including territory being annexed to any local agency, or of any existing or proposed new improvement local agency within that local agency. The new indebtedness may be the obligation solely of territory to be annexed if the local agency has the authority to establish zones for incurring indebtedness. The indebtedness or liability shall be incurred substantially in accordance with the laws otherwise applicable to the local agency.

(g) The issuance and sale of any bonds, including authorized but unissued bonds of a local agency, either by that local agency or by

a local agency designated as the successor to any local agency which is extinguished as a result of any change of organization or reorganization.

(h) The acquisition, improvement, disposition, sale, transfer, or division of any property, real or personal.

(i) The disposition, transfer, or division of any moneys or funds, including cash on hand and moneys due but uncollected, and any other obligations.

(j) The fixing and establishment of priorities of use, or right of use, of water, or capacity rights in any public improvements or facilities or of any other property, real or personal.

(k) The establishment, continuation, or termination of any office, department, or board, or the transfer, combining, consolidation, or separation of any offices, departments, or boards, or any of the functions of those officers, departments, or boards, if, and to the extent that, any of those matters is authorized by the principal act.

(*l*) The employment, transfer, or discharge of employees, the continuation, modification, or termination of existing employment contracts, civil service rights, seniority rights, retirement rights, and other employee benefits and rights.

(m) The designation of a city, county, or district, as the successor to any local agency which is extinguished as a result of any change of organization or reorganization, for the purpose of succeeding to all of the rights, duties, and obligations of the extinguished local agency with respect to enforcement, performance, or payment of any outstanding bonds, including revenue bonds, or other contracts and obligations of the extinguished local agency.

(n) The designation (1) of the method for the selection of members of the legislative body of a district or (2) the number of those members, or (3) both, where the proceedings are for a consolidation, or a reorganization providing for a consolidation or formation of a new district and the principal act provides for alternative methods of that selection or for varying numbers of those members, or both.

(o) The initiation, conduct, or completion of proceedings on a proposal made under, and pursuant to, this division.

(p) The fixing of the effective date of any change of organization, subject to the limitations of Section 57202.

(q) Any terms and conditions authorized or required by the principal act with respect to any change of organization.

(r) The continuation or provision of any service provided at that time, or previously authorized to be provided by an official act of the local agency.

(s) The levying of a benefit assessment or the approval by the voters of a special tax.

(t) The continuation of any previously authorized standby or availability charge, benefit assessment, or special tax by a successor local agency.

(u) Any other matters necessary or incidental to any of the terms

and conditions specified in this section.

56845. Proposed terms and conditions for a change of organization or a reorganization may be contained in any proposal for change of organization or reorganization. At any time prior to completion of a change of organization or a reorganization, proposed terms and conditions or proposed additions, deletions, amendments, or revisions of any terms and conditions proposed to, or specified by, the commission may be submitted to the commission pursuant to Section 56857.

56846. Any of the terms and conditions authorized by Section 56844 may be made applicable to all or any part of any city or district or any improvement district within that local agency or any territory annexed to, or detached from, any city or district or improvement district within that local agency.

56847. If any change of organization or reorganization pertains to city or district territory which is located, in whole or in part, within the boundaries of any city or county, any terms and conditions authorized by Section 56844 may be made applicable to that city or county. However, no indebtedness or liability which is subject to the requirement of an election, under the provisions of Section 18 of Article XVI of the California Constitution, shall be incurred or assumed by any city or county, except as provided in Section 18 of Article XVI of the California Constitution.

56848. (a) Notwithstanding any other provision of law, if an application is for the incorporation of a new city or the annexation of territory to an existing city, the commission may, in any resolution approving that incorporation or annexation, provide that any territory of a fire protection district which is to be dissolved pursuant to Part 2.7 (commencing with Section 13801) of Division 12 of the Health and Safety Code as a result of that incorporation or annexation, or any territory which is to be detached from a fire protection district organized under that part or a county service area organized pursuant to Chapter 2.2 (commencing with Section 25210.1) of Part 2 of Division 2 of Title 3 as a result of that incorporation or annexation, is subject to any of the terms and conditions authorized in Section 56844, as the commission specifies in the resolution with respect to that territory.

(b) When, pursuant to Section 13954 of the Health and Safety Code, the commission is required to determine a division of the property and assets of a fire protection district between that district and a city, the commission may by regulation provide a procedure for making that determination. However, that procedure shall provide that the determination shall be made by resolution adopted by the commission. The commission shall cause a certified copy of that resolution to be mailed to the legislative body of the fire protection district and the city council.

56849. In any order approving a proposal for an annexation to, or detachment from, a district, the commission may determine that any election called upon the question of confirming an order for the

annexation or detachment shall be called, held, and conducted upon that question under either of the following conditions:

(a) Only within the territory ordered to be annexed or detached.

(b) Both within the territory ordered to be annexed or detached and within all or any part of the district which is outside of the territory.

56850. In any order approving a proposal for an annexation or a reorganization which includes annexation of inhabited territory to a city when the assessed value of land within that territory proposed to be annexed equals one-half, or more, of that within the city, as shown by the last equalized assessment rolls, or the number of registered voters of the territory equals one-half, or more, of the number of registered voters within the city, as shown by the county register of voters, the commission shall require that an election called upon the question of confirming the reorganization shall also be called, held, and conducted within the territory of the city to which territory is proposed to be annexed.

56851. At any time not later than 35 days after the conclusion of the hearing, the commission shall adopt a resolution making determinations approving or disapproving the proposal, with or without conditions, the plan of reorganization, or any alternative plan of reorganization as set forth in the report and recommendation of a reorganization committee. If the commission disapproves the proposal, plan of reorganization, or any alternative plan of reorganization, no further proceedings shall be taken on those proposals or plans.

56852. The resolution making determinations shall also do all of the following:

(a) Make any of the findings or determinations authorized or required pursuant to Section 56375.

(b) If applicable, assign a distinctive short-term designation to the affected territory and a description of the territory.

(c) Direct the appropriate conducting authority to initiate proceedings in compliance with the resolution.

56853. The executive officer shall mail a copy of the resolution adopted by the commission making determinations addressed to each of the following persons or entities:

(a) The chief petitioners, if any, where the proceedings for change of organization were initiated by petition.

(b) Each affected local agency whose boundaries would be changed by the proposal.

(c) The conducting authority, by certified mail, return receipt requested.

56854. Any legislative body conducting a proceeding as described in Section 56857 may, before the completion of that proceeding, on good cause being shown, correct clerical errors or mistakes made through inadvertence, surprise, or excusable neglect that may be contained in the resolution adopted by the commission making determinations, if it first obtains the written consent of either the

executive officer or the commission. The commission may likewise make those corrections before the completion of subsequent proceedings upon application by any member of the commission, by the executive officer, or by any affected agency.

56855. (a) Except as otherwise provided in subdivision (b), if the commission wholly disapproves any proposal:

(1) No further proceedings shall be taken on that proposal.

(2) No similar proposal involving the same or substantially the same territory shall be initiated for one year after the date of adoption of the resolution terminating proceedings.

(b) The commission may waive the requirements of subdivision (a) if it finds those requirements are detrimental to the public interest.

56856. The commission may, at any time, authorize any legislative body holding a hearing pursuant to this division, to continue the hearing to a date or dates extending beyond the dates specified in this division.

56857. The conducting authority or any affected county, city, district, landowner, voter, taxpayer, inhabitant, or other interested person desiring any addition, deletion, amendment, or revision of any resolution adopted by the commission making determinations approving the proposal or of any term, condition, or other provision in that resolution, including the boundaries of the affected territory determined and established by the commission, shall file a written application with the executive officer before final action of the conducting authority or within 30 days of the adoption of the resolution by the commission, and the executive officer shall present the application to the commission at its next meeting.

Once a request for a rehearing is filed with the executive officer, the conducting authority shall be notified by the executive officer, and the conducting authority shall not take final action until the commission has made a determination on the requested change.

Reconsideration of the commission resolution shall be made prior to final action of the conducting authority and in no case to exceed 60 days from the date of notification by the executive officer. The filed application may be withdrawn by the applicant at any time prior to its having been denied or approved by the commission.

The commission may do either of the following:

(a) Without further notice and hearing, deny or approve the application in whole or in part.

(b) Provide for notice and hearing upon the application in the same manner as for the original proposal, prior to denying or approving the application.

The determinations of the commission as specified in its resolution, or in any amended resolution, including the commission's determinations as to boundaries of the affected territory, shall be final and conclusive, and no further changes shall be made except as provided in this section.

56858. If pursuant to Section 56857, the commission approves any

addition, deletion, amendment, or revision of its resolution making determinations, further proceedings for the change of organization or reorganization shall be taken in compliance with that addition, deletion, amendment, or revision. Any provision of this division requiring compliance with the resolution adopted by the commission making determinations shall be deemed to include any addition, deletion, amendment, or revision made to that resolution.

56859. Whenever the executive officer is required by law to prepare an impartial analysis of a ballot proposition for approval by the commission, the commission may, by regulation, provide a procedure for approval or modification of the executive officer's analysis.

In any event, the analysis shall be prepared and submitted to the commission in sufficient time for the commission to consider and approve or modify the analysis, and submit the analysis to the officials conducting the election not later than the last day for submission of rebuttal arguments. The impartial analysis submitted by the commission shall not exceed 500 words in length and shall include a general description of the affected territory.

PART 4. CONDUCTING AUTHORITY PROCEEDINGS FOR CHANGES OF ORGANIZATION OR REORGANIZATION

CHAPTER 1. GENERAL

57000. (a) After completion of proceedings by the commission pursuant to Part 3 (commencing with Section 56650), proceedings for a change of organization or reorganization shall be taken pursuant to this part.

(b) If a proposal is approved by the commission, with or without amendment, wholly, partially, or conditionally, the conducting authority shall conduct proceedings in accordance with this part. The proceedings shall be conducted and completed pursuant to those provisions which are applicable to the proposal and the territory contained in the proposal as it is approved by the commission. If the commission approves the proposal with modifications or conditions, proceedings shall be conducted and completed in compliance with those modifications or conditions.

57001. If the conducting authority does not complete a proceeding within one year after the commission approves a proposal for that proceeding, the proceeding shall be deemed abandoned unless prior to the expiration of that year the commission authorizes an extension of time for that completion. The inability of the conducting authority to complete a proceeding because of the order or decree of a court of competent jurisdiction temporarily enjoining or restraining the proceedings shall not be deemed a failure of completion and the one-year period shall be tolled for the time that order or decree is in effect.

57002. (a) Within 35 days following the adoption of the

commission's resolution making determinations, the clerk of the conducting authority shall set the proposal for hearing and give notice of that hearing by mailing, publication, and posting, as provided in Chapter 4 (commencing with Section 56150) of Part 1. The date of that hearing shall not be less than 15 days, or more than 60 days, after the date the notice is given.

(b) If authorized by the commission pursuant to Section 56837, a change of organization or reorganization may be approved by resolution of the conducting authority without notice, hearing, and election.

57003. Once notice is given by the clerk of the conducting authority pursuant to this chapter, jurisdiction over the proceedings is acquired by the legislative body of the conducting authority, and until those proceedings are completed or terminated pursuant to this part, no conflicting petition or resolution of application seeking the change of organization or reorganization of all or part of the territory described by the resolution initiating proceedings shall be filed with, or acted on, by the commission.

57004. The conducting authority may establish a schedule of processing fees for the estimated expenses of complying with procedures required or authorized by this part or local ordinance. The fees shall not exceed the amount reasonably required by the conducting authority to comply with those procedures. Notification of the fee schedule shall be given to the chief petitioners. The processing fee shall be deposited with the conducting authority. The deposit of the processing fee shall be made within the period of time specified by the conducting authority. No further action shall be taken until the processing fee is deposited.

57005. After the expiration of 60 days from the date of adoption of the commission's resolution making determinations, the commission may by resolution certify either of the following to the board of supervisors of the principal county in which the affected territory is located:

(a) That the executive officer was unable to effect mailing or delivery of a certified copy of the commission's resolution making determinations to any conducting authority for either of the following reasons:

(1) The conducting authority did not make the filing required by Section 53051.

(2) The return, undelivered, of that certified copy after having been mailed to the clerk of a conducting authority at the address specified in the filing required by Section 53051.

(b) That the conducting authority has not initiated, conducted, or completed proceedings for the change of organization or reorganization in compliance with the commission's resolution making determinations or has not complied with any terms or conditions of that resolution.

57006. At any time after the adoption of a resolution of certification pursuant to Section 57005, the board of supervisors and

the clerk and the other officers of the county shall assume jurisdiction to conduct and complete any proceedings for the change of organization or reorganization and to enforce compliance with any terms or conditions referred to in that resolution. Upon the assumption of that jurisdiction, the board of supervisors and the clerk and other officers of the county shall have exclusive jurisdiction with respect to those proceedings and shall exercise all powers and duties vested in the conducting authority and the clerk or other officers of the conducting authority for the purpose of completing those proceedings. Any jurisdiction assumed and exercised by the board of supervisors and the clerk or other officers of the county pursuant to this section shall be given the same force and effect as if taken by the conducting authority and the clerk or officers of the conducting authority.

57007. Except when a district formation is part of a reorganization, formation proceedings shall be conducted as set forth in the principal act of the district to be formed, and this part shall not apply, except for the provisions relating to the completion and effective date of a change of organization or reorganization contained in Chapter 8 (commencing with Section 57200). When the district formation is part of a reorganization, all of the proceedings shall be conducted pursuant to this part.

CHAPTER 2. NOTICE OF HEARING

57025. Upon receipt of a copy of the commission's resolution making determinations, the clerk of the conducting authority shall give notice of the hearing to be held on the proposal by publication pursuant to Sections 56153 and 56154 and by posting pursuant to Sections 56158 and 56159. The clerk shall also give mailed notice to each affected city, affected district, or affected county, the commission, the chief petitioners, if any, all landowners owning land within any territory proposed to be formed into, or to be annexed to, or detached from, an improvement district within any city or district, and to persons requesting special notice, in accordance with the provisions of Sections 56155 to 56157, inclusive.

57026. The mailed notice required to be given by Section 57025 shall contain all of the following information:

(a) A statement of the distinctive short form designation assigned by the commission to the proposal.

(b) A statement of the manner in which, and by whom, preliminary proceedings were commenced. However, a reference to the chief petitioners, if any, shall be sufficient where preliminary proceedings were commenced by a petition.

(c) A description of the exterior boundaries of the subject territory.

(d) A description of the particular change or changes of organization proposed for each of the subject districts or cities and new districts or new cities proposed to be formed, and any terms and

conditions to be applicable. The description may include a reference to the commission's resolution making determinations for a full and complete description of the change of organization or reorganization, and the terms and conditions.

(e) A statement of the reason or reasons for the change of organization or reorganization as set forth in the proposal submitted to the commission.

(f) A statement of the time, date, and place of the hearing on the proposed change of organization or reorganization.

(g) If the subject territory is inhabited and the change of organization or reorganization provides for the submission of written protests, a statement that any owner of land within the territory, or any registered voter residing within the territory, may file a written protest against the proposal with the clerk of the conducting authority at any time prior to the conclusion of the hearing by the conducting authority on the proposal.

(h) If the subject territory is uninhabited and the change of organization or reorganization provides for submission of written protests, a statement that any owner of land within the territory may file a written protest against the proposal with the clerk of the conducting authority at any time prior to the conclusion of the hearing by the conducting authority on the proposal.

CHAPTER 3. CONDUCT OF HEARING

57050. (a) The hearing on the proposal shall be held by the conducting authority on the date and at the time specified in the notice given by the clerk. The hearing may be continued from time to time but not to exceed 60 days from the date specified for the hearing in the notice.

(b) At the hearing, prior to consideration of protests, the commission's resolution making determinations shall be summarized. At that hearing, the conducting authority shall hear and receive any oral or written protests, objections, or evidence which is made, presented, or filed. Any person who has filed a written protest may withdraw that protest at any time prior to the conclusion of the hearing.

57051. At any time prior to the time specified for commencement of the hearing in the notice given by the clerk, but not thereafter, any owner of land or any registered voter within inhabited territory proposed to be annexed or detached, or any owner of land within uninhabited territory proposed to be annexed or detached, may file a written protest against the annexation or detachment. Each written protest shall state whether it is made by a landowner or registered voter and the name and address of the owner of the land affected and the street address or other description sufficient to identify the location of the land or the name and address of the registered voter as it appears on the affidavit of registration. Protests may be made on behalf of an owner of land by an agent authorized

in writing by the owner to act as agent with respect to that land. Protests may be made on behalf of a private corporation which is an owner of land by any officer or employee of the corporation without written authorization by the corporation to act as agent in making that protest.

Each written protest shall show the date that each signature was affixed to the protest. All signatures without a date or bearing a date prior to the date of publication of the notice shall be disregarded for purposes of ascertaining the value of any written protests.

57052. Upon conclusion of the hearing, the conducting authority shall determine the value of written protests filed and not withdrawn. The value of written protests shall be determined in the same manner prescribed in Sections 56707, 56708, and 56710 for determining the sufficiency of petitions filed with the commission.

57053. If the terms and conditions of any change of organization provide for the formation of a new improvement district, or the annexation or detachment of territory to, or from, an existing improvement district, the conducting authority shall do all of the following:

(a) Exclude any lands proposed to be formed into, or to be annexed to, the improvement district which the conducting authority finds will not be benefited by becoming a part of the improvement district.

(b) Exclude any lands proposed to be detached from an improvement district which the conducting authority finds will be benefited by remaining a part of the improvement district.

(c) Notify the commission of any exclusion of lands pursuant to subdivision (a) or (b).

CHAPTER 4. RESOLUTION OF CONDUCTING AUTHORITY

57075. In the case of registered voter districts or cities, where a change of organization or reorganization consists solely of annexations, detachments, or formation of county service areas, or any combination of those proposals, the conducting authority, not more than 30 days after the conclusion of the hearing, shall adopt a resolution making a finding regarding the value of written protests filed and not withdrawn, and take one of the following actions, except as provided in subdivision (b) of Section 57002.

(a) In the case of inhabited territory, take one of the following actions:

(1) Terminate proceedings if a majority protest exists in accordance with Section 57078.

(2) Order the change of organization or reorganization subject to confirmation by the registered voters residing within the affected territory if written protests have been filed and not withdrawn by either of the following:

(A) At least 25 percent, but less than 50 percent, of the registered voters residing in the affected territory.

(B) At least 25 percent of the number of owners of land who also own at least 25 percent of the assessed value of land within the affected territory.

(3) Order the change of organization or reorganization without an election if written protests have been filed and not withdrawn by less than 25 percent of the registered voters or less than 25 percent of the number of owners of land owning less than 25 percent of the assessed value of land within the affected territory.

(b) In the case of uninhabited territory, take either of the following actions:

(1) Terminate proceedings if a majority protest exists in accordance with Section 57078.

(2) Order the change of organization or reorganization if written protests have been filed and not withdrawn by owners of land who own less than 50 percent of the total assessed value of land within the affected territory.

57076. In the case of landowner-voter districts, where a change of organization or reorganization consists solely of annexations or detachments, or any combination of those proposals, the conducting authority, not more than 30 days after the conclusion of the hearing, shall adopt a resolution making a finding regarding the value of written protests filed and not withdrawn, and take one of the following actions, except as provided in subdivision (b) of Section 57002:

(a) Terminate proceedings if a majority protest exists in accordance with Section 57078.

(b) Order the change of organization or reorganization subject to an election within the affected territory if written protests have been filed and not withdrawn represent either of the following:

(1) Twenty-five percent or more of the number of owners of land who also own 25 percent or more of the assessed value of land within the territory.

(2) Twenty-five percent or more of the voting power of landowner voters entitled to vote as a result of owning property within the territory.

(c) Order the change of organization or reorganization without an election if written protests have been filed and not withdrawn by less than 25 percent of the number of owners of land who own less than 25 percent of the assessed value of land within the affected territory.

57077. (a) Where a change of organization consists of a dissolution, disincorporation, incorporation, establishment of a subsidiary district, consolidation, or merger, the conducting authority, not more than 30 days after the conclusion of the hearing, shall adopt a resolution making a finding regarding the value of written protests filed and not withdrawn, and take one of the following actions:

(1) Terminate proceedings if a majority protest exists in accordance with Section 57078.

(2) Order the change of organization subject to confirmation of the voters, or in the case of a landowner-voter district, subject to confirmation by the landowners, unless otherwise stated in the formation provisions of the enabling statute of the district.

(3) Order the change of organization without election if it is a change of organization that meets the requirements of Section 57081, 57083, or 57087; otherwise, the conducting authority shall take the action specified in paragraph (2).

(b) Where a reorganization consists of one or more dissolutions, incorporations, formations, disincorporations, mergers, establishments of subsidiary districts, consolidations, or any combination of those proposals, the conducting authority, not more than 30 days after the conclusion of the hearing, shall adopt a resolution regarding the value of written protests filed and not withdrawn and take one of the following actions:

(1) Terminate proceedings if a majority protest exists in accordance with Section 57078.

(2) Order the reorganization subject to confirmation of the voters, or in the case of landowner-voter districts, subject to confirmation by the landowners, unless otherwise stated in the formation provisions of the enabling statute of the district.

(3) Order the reorganization without election if it is a reorganization which meets the requirements of Section 57081, 57083, 57087, or 57089; otherwise, the conducting authority shall take the action specified in paragraph (2).

57078. In the case of any reorganization or change of organization, a majority protest shall be deemed to exist and the proposed change of organization or reorganization shall be abandoned if the conducting authority finds that written protests filed and not withdrawn prior to the conclusion of the hearing represent either of the following:

(a) In the case of uninhabited territory, landowners owning 50 percent or more of the assessed value of the land within the territory.

(b) In the case of inhabited territory, 50 percent or more of the voting power of voters entitled to vote as a result of residing in, or owning land within, the territory.

57079. (a) Notwithstanding Sections 57075 and 57078, if the proposed change of organization is a city detachment, the conducting authority, not more than 30 days after the conclusion of the hearing, may by resolution terminate the detachment proceedings.

(b) Notwithstanding Sections 57075, 57077, and 57078, if a proposed reorganization includes the detachment of territory from any city, the conducting authority, not more than 30 days after conclusion of the hearing, shall terminate the proceeding if a resolution or written protest against the reorganization is filed prior to the conclusion of the hearing by any city from which any portion of the territory of the city would be detached or removed pursuant to the reorganization.

57079.5. (a) Notwithstanding Sections 57075 and 57076, if the proposed change of organization is a district annexation, factors to be considered by the conducting authority shall include all of the following:

(1) Whether the proposed annexation will be for the interest of landowners or present or future inhabitants within the district and within the territory proposed to be annexed to the district.

(2) The commission's resolution making determinations.

(3) Any factors which may be considered by the commission as provided in Section 56841.

(4) Any other matters which the conducting authority deems material.

Except for findings regarding the value of written protests, the conducting authority is not required to make any express findings concerning any of the factors considered by the conducting authority.

(b) The conducting authority for a district annexation, not more than 30 days after the conclusion of the hearing, shall adopt a resolution and take one of the following actions:

(1) Disapprove the proposed annexation.

(2) Terminate the proceedings as provided in Section 57075 or 57076.

(3) Order the annexation as provided in Section 57075 or 57076.

57080. (a) With respect to a proceeding initiated before January 1, 1981, when approved and authorized by the commission pursuant to subdivision (d) of Section 56375, the conducting authority shall, not later than 35 days after conclusion of the hearing, adopt a resolution ordering the annexation without an election or shall, by resolution, terminate the proceedings. Sections 57050, 57051, and 57052 do not apply to any annexation subject to this subdivision.

(b) With respect to a proceeding initiated on or after January 1, 1984, when approved and authorized by the commission pursuant to subdivision (d) of Section 56375, Sections 57050, 57051, and 57052, shall apply and subdivision (a) of Section 57075 does not apply.

(1) If the territory proposed to be annexed is inhabited territory, the conducting authority, not more than 30 days after conclusion of the hearing, shall adopt a resolution making a finding regarding the value of written protests filed and not withdrawn and shall do either of the following:

(A) Terminate proceedings if written protests have been filed and not withdrawn by 50 percent or more of the registered voters within the affected territory.

(B) Order the territory annexed without an election.

(2) If the territory proposed to be annexed is uninhabited, the conducting authority, not more than 30 days after conclusion of the hearing, shall adopt a resolution which does either of the following:

(A) Terminates proceedings.

(B) Orders the territory annexed.

57081. (a) If authorized by the commission pursuant to Section

56839, the conducting authority shall conduct proceedings for the consolidation of districts or the reorganization of all or any part of those districts into a single district, pursuant to this section. The conducting authority shall hold at least one noticed public hearing on the proposal within 30 days after approval of the application by the commission. After the conclusion of the hearing, the conducting authority shall order the consolidation or reorganization without an election, except as otherwise provided in subdivision (b).

(b) An election shall only be held if the conducting authority finds either of the following:

(1) In the case of inhabited territory, that a petition requesting that the proposal be submitted to confirmation by the voters has been signed by either of the following:

(A) At least 25 percent of the number of landowners within the territory subject to the consolidation or reorganization who own at least 25 percent of the assessed value of land within the territory.

(B) At least 25 percent of the voters entitled to vote as a result of residing within, or owning land within, the territory.

(2) In the case of a landowner-voter district, that the territory is uninhabited and a petition requesting that the proposal be submitted to confirmation by the voters has been signed by at least 25 percent of the number of landowners within the territory subject to the consolidation or reorganization, owning at least 25 percent of the assessed value of land within the district.

(c) The petition shall be filed with the conducting authority within 30 days after the public hearing required by subdivision (a) has been held. If a petition has been filed, the conducting authority shall approve the proposal subject to confirmation by the voters of the district pursuant to Sections 57077 and 57103.

57082. Any resolution ordering a change of organization or a reorganization shall contain all of the following:

(a) A statement that the action is being taken pursuant to this division.

(b) A statement of the type of change of organization or reorganization being acted on.

(c) A description of the exterior boundaries of the territory for each change of organization or reorganization approved by the commission.

(d) The name or names of any new or consolidated city or district.

(e) All of the terms and conditions upon the change of organization or reorganization approved by the commission.

(f) The reasons for the change of organization or reorganization.

(g) A statement as to whether the regular county assessment roll or another assessment roll will be utilized.

(h) A statement that the affected territory will or will not be taxed for existing general bonded indebtedness of any agency whose boundaries are changed.

(i) Any other matters which the conducting authority deems material.

57083. (a) In any resolution ordering a dissolution, the conducting authority shall make findings upon one or more of the following matters:

(1) That the corporate powers have not been used, as specified in Section 56759, and that there is a reasonable probability that those powers will not be used in the future.

(2) That the district is a registered-voter district and is uninhabited.

(3) That the board of directors of the district has, by unanimous resolution, consented to the dissolution of the district.

(b) If the conducting authority makes any of the findings specified in subdivision (a), the conducting authority may order the dissolution of the district without election.

57084. Any order of merger may be adopted for a district of limited powers, including any such district previously established as a subsidiary district, if the entire territory of the district is included within the boundaries of a city upon the date of the order.

57085. An order establishing a district of limited powers as a subsidiary district may be adopted if upon the date of that order the conducting authority determines that either of the following situations exists:

(a) The entire territory of the district is included within the boundaries of a city.

(b) A portion or portions of the territory of the district are included within the boundaries of a city and that portion or portions meet both of the following requirements:

(1) Represent 70 percent or more of the area of land within the district, as determined by reference to the statements and the maps or plats filed pursuant to Chapter 8 (commencing with Section 54900) of Division 2 of Title 5 for the current fiscal year.

(2) Contain 70 percent or more of the number of registered voters who reside within the district as shown on the voters' register in the office of the county clerk or registrar of voters.

57086. For the purposes of Sections 57084 and 57085, the boundaries shall be determined as of the date of adoption of the order of the board of supervisors. Any then pending but uncompleted proceedings for changes in the boundaries of the city or district shall be disregarded.

57087. In any resolution ordering a merger or establishment of a subsidiary district, the conducting authority shall take one of the following actions:

(a) Order the merger or establishment of the subsidiary district subject to confirmation of the voters upon the questions, as the case may be, of merger, the establishment of a subsidiary district, or both merger and the establishment of a subsidiary district.

(b) Order the merger or establishment of the subsidiary district without election, if the legislative body of the city and the board of directors of the district have by resolution consented to the merger or the establishment of the subsidiary district.

57087.5. At any time prior to the adoption by the conducting authority of a resolution ordering the district to be merged with or established as a subsidiary district of a city, a petition may be filed with the clerk referring, by date of adoption, to the commission's resolution making determinations and requesting that any election upon that question be called, held, and conducted only within that district. Any petition so filed shall be immediately examined and certified by the clerk by the same method and in the same manner as provided in Sections 56707 to 56711, inclusive, for the examination of petitions by the executive officer. The conducting authority shall call, hold, and conduct any election upon the question of a merger or the establishment of a subsidiary district only within the district to be merged or established as a subsidiary district, if the clerk certifies that any petition so filed was signed by either of the following:

(a) In the case of a registered voter district, by not less than 10 percent of the registered voters of the district.

(b) In the case of a landowner-voter district, by not less than 10 percent of the number of landowner-voters within the district who also own not less than 10 percent of the assessed value of land within the district.

57088. In any resolution approving, subject to the confirmation of the voters, both an original and an alternative proposal as determined by the commission pursuant to paragraph (2) of subdivision (a) of Section 56831, the ballot at the election shall enable those voting to do one of the following:

(a) Disapprove both proposals.

(b) Approve either the original proposal or the alternative proposal.

The board of supervisors shall adopt a resolution confirming the proposal which was favored by a majority of votes cast at the election. Where both proposals were favored by a majority of the votes cast, the board of supervisors shall adopt a resolution confirming the proposal which received the greater number of votes.

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.

57089. In any reorganization proceeding where the component changes of organization would not individually require a confirmation election, no confirmation election shall be required to approve the reorganization.

57090. (a) Except as otherwise provided in subdivision (b), if proceedings are terminated, either by majority protest as provided in Sections 57075, 57076, and 57077, or if a majority of voters do not confirm the change of organization or reorganization as provided in Section 57179, no substantially similar proposal for a change of organization or reorganization of the same or substantially the same territory may be filed with the commission within two years after the date of adoption of the resolution terminating proceedings adopted

by the conducting authority if the proposal included an incorporation or city consolidation and within one year for any other change of organization or reorganization.

(b) The commission may waive the requirements of subdivision (a) if it finds these requirements are detrimental to the public interest.

57091. (a) Except as otherwise provided in subdivision (b), if proceedings are terminated by failure of a majority of voters to confirm a resolution ordering merger or establishment of a subsidiary district, no new proposal for a merger or establishment of a subsidiary district involving the same district may be filed with the commission on or after January 1, 1985, within two years of the date of the resolution adopted by the conducting authority, pursuant to Section 57179.

(b) The commission may waive the requirements of subdivision (a) if it finds these requirements are detrimental to the public interest.

CHAPTER 5. RESOLUTION FOR ORDER SUBJECT TO ELECTION

57100. (a) Any resolution adopted pursuant to this part which orders a change of organization or a reorganization subject to confirmation by the voters upon that question shall, in addition to any applicable requirements contained in Sections 57082 to 57089, inclusive, do all of the following:

(1) Call, provide for, and give notice of a special election or elections upon that question.

(2) Designate the affected territory within which the special election or elections shall be held.

(3) Fix a date of election.

(4) Provide for the question or questions to be submitted to the voters.

(5) Designate precincts and polling places.

(6) Specify any terms or conditions provided for in the change of organization or reorganization.

(7) State the vote required for confirmation of the change of organization or reorganization.

(8) Contain any other matters necessary to call, provide for, and give notice of the special election or elections and to provide for the conduct and the canvass of returns of the election, as determined by the conducting authority.

(b) Any resolution referred to in subdivision (a) may also designate precincts and polling places.

57101. In addition to any other requirements, any resolution of the conducting authority ordering an incorporation subject to an election shall do all of the following:

(a) Provide for the election of the officers of the proposed city required to be elected, except as to officers designated as appointive, pursuant to Section 56702.

(b) Provide for the election on the question of whether members of the city council in future elections are to be elected by district or at large.

(c) If the petition so requests, state that the voters may express a preference as to whether or not the city shall operate under the city manager form of government, the ballot question being for or against the city manager form of government.

(d) If the petition so requests, state that the voters may express their preference between names for the new city.

57102. In addition to any other requirements, any resolution of the conducting authority ordering a consolidation of cities subject to an election shall do all of the following:

(a) Provide for the election of officers of the successor city required to be elected.

(b) State that the voters may express their preference as to the name of the successor city.

57103. In any resolution ordering a change of organization or reorganization subject to the confirmation of the voters, the conducting authority shall call an election within any of the following:

(1) Within the territory of each city or district ordered to be incorporated, formed, disincorporated, dissolved or consolidated.

(2) Within the entire territory of each district ordered to be merged with or established as a subsidiary district of a city, or both within the district and within the entire territory of the city outside the boundaries of the district.

(3) Within the territory ordered to be annexed or detached.

(4) If ordered by the commission pursuant to Sections 56849 or 56850, both within the territory ordered to be annexed or detached and within all or such part of the city or district as is outside of the territory.

CHAPTER 6. ELECTIONS

57125. Special elections called within all or any part of a city or registered-voter district shall be governed by the general election provisions and the local election provisions of the Elections Code, so far as they may be applicable, relating to the qualifications of voters, the manner of voting, the form of the ballot, the duties of precinct and election officers, the canvassing of returns, and all other particulars. If the conducting authority determines that there is any inconsistency:

(a) Between the general elections provisions and the local elections provisions of the Elections Code, the local elections provisions shall control.

(b) Between this division and the Elections Code, this division shall control.

57126. Special elections called within all or any part of a landowner-voter district shall be governed by the general elections

provisions of the principal act, so far as they may be applicable, relating to the qualifications of voters, the manner of voting, the form of the ballot, the duties of precinct and election officers, the canvassing of returns, and all other particulars. To the extent of any inconsistency between the provisions of this division and the principal act as determined by the conducting authority, the provisions of this division shall control.

57127. If the conducting authority calls any special election within all or any part of any district, any references in the principal act to the board of directors of the district and to the clerk or secretary of the district shall be deemed to mean the conducting authority and the clerk, respectively.

57127.5. If special elections are called upon the same question or questions within all or any part of any landowner-voter district, and any city or registered-voter district, the provisions of Section 57125 shall apply, except that, as to the landowner-voter district, the provisions of its principal act shall govern the qualifications of landowner-voters, the number of votes which each landowner-voter is entitled to cast, the manner of voting, and the form of the ballot.

57128. Where any special election or elections are called upon the question of confirmation of an order for a reorganization and the areas within which the election or elections are called contain overlapping territory of two or more cities or districts, within all of the overlapping territory the election precincts, polling places, voting booths, and ballot boxes shall, in every case, be the same and there shall be only one precinct board or set of election officers for each precinct.

57129. Where any records of a city or a district are required for the purpose of calling, holding, or conducting any special election called by the conducting authority pursuant to this division, those records or certified copies of those records shall be delivered, upon request, to the conducting authority by the city or district officer having custody of the records or copies and shall be returned to that officer immediately after the canvass of the election returns. All other election records, documents, instruments, and election supplies, including, but not limited to, rosters, ballots, and tally sheets, shall be retained or disposed of by the clerk in the manner provided by law.

57130. The clerk of the agency conducting the election shall cause notice of each change of organization or reorganization election to be given by publication, posting, and mailing as provided in Chapter 2 (commencing with Section 57025) of Part 4.

57131. The notice of election required to be given by Section 57130 shall contain all of the matters specified in Section 57100.

57132. The election on the question of the change of organization or reorganization shall be called and held on the next regular election date occurring at least 88 days after the date upon which the resolution calling the election was adopted.

57133. The question or questions to be submitted at any special

election or elections called pursuant to this part shall be in substantially the following form:

(a) For an incorporation: "Shall the order adopted on _____, 19____, by the Board of Supervisors of _____ County ordering the incorporation of the territory described in the order and designated in the order as _____ (insert the distinct short form designation previously assigned by the commission) be confirmed?"

(b) For an annexation: "Shall the order adopted on _____, 19____, by the _____ (insert conducting authority) ordering the annexation to _____ (insert city or district) of the territory described in that order and designated as _____ (insert the short form designation previously assigned by the commission) be confirmed?"

(c) For a detachment: "Shall the order adopted on _____, 19____, by the _____ (insert conducting authority) ordering the detachment from the _____ (insert city or district) of the territory described in the order and designated in the order as _____ (insert the short form designation previously assigned by the commission) be confirmed?"

(d) For a city consolidation: "Shall the order adopted on _____, 19____, by the _____ (insert conducting authority) of the City of _____ (insert name of city) ordering the consolidation of the Cities of _____ (insert names of all cities ordered consolidated) into a single city known as the City of _____ be confirmed?"

(e) For a disincorporation: "Shall the order adopted on _____, 19____, by the City Council of the City of _____ ordering the disincorporation of the City of _____ be confirmed?"

(f) For a reorganization: "Shall the order adopted on _____, 19____, by the _____ (insert conducting authority) ordering a reorganization affecting the _____ (insert names of all affected cities or districts) and providing for _____ (insert list of all changes of organization or new cities proposed to be incorporated or districts to be formed) be confirmed?"

(g) For a district dissolution: "Shall the order adopted on _____, 19____, by the Board of Supervisors of the County of _____ ordering the dissolution of the _____ district be confirmed?"

(h) For a district consolidation: "Shall the order adopted on _____, 19____, by the Board of Supervisors of the County of _____ ordering the consolidation of _____ (insert the names of all districts ordered consolidated) into a single district known as the _____ District be confirmed?"

(i) For a merger: "Shall the order adopted on _____, 19____, by the Board of Supervisors of the County of _____ ordering the merger of the _____ District with the City of _____ be confirmed?"

(j) For establishment of a subsidiary district: "Shall the order adopted on _____, 19____, by the Board of Supervisors of the County of _____ ordering the _____ District established as a

subsidiary district of the City of _____ be confirmed?"

(k) For a district formation, use form of question under principal act of district being formed. If none, use substantially the following form: "Shall the order adopted on _____, 19____, by the Board of Supervisors of _____ County ordering the formation of a district in the territory described, known as _____, be approved?"

57134. If the change of organization or reorganization has been ordered subject to any terms and conditions, there shall be added to the end of the questions set forth in Section 57133 words substantially as follows:

"Subject to the terms and conditions specified in the order."

57135. (a) If any of the terms and conditions have the effect of imposing or increasing liability for payment of (1) taxes or assessments to be levied and collected, (2) service charges, rentals, or rates to be fixed and collected, or (3) both, upon or within all or any part of the territory affected by the proposed change of organization or reorganization, the question shall contain a very brief summary of the purpose, nature, and extent of the liability and shall refer to the order ordering the change of organization or reorganization for particulars. The legislative body may include in the question a summary of any of the other terms and conditions.

(b) No reference need be made to any liability for payment of any of the following to be imposed for the usual and ordinary support, management, and operation of any district:

(1) Annual taxes or assessments.

(2) Ordinary service charges, rentals, or rates.

(3) Both taxes or assessments and service charges, rentals, or rates.

(c) Where a summary is included in a question, there shall be added to the clause set forth in Section 57134 words substantially as follows:

"Such terms and conditions including (set forth very brief summary), all as more particularly described and set forth in the order."

57136. This section shall apply only to changes of organization and reorganizations made by, or with respect to, a member district. If a change of organization or reorganization adding territory to a member district will not result in the additional territory being entitled to receive or be furnished with any new or additional governmental or proprietary service or commodity by the parent district, the question submitted to the voters shall so indicate. If a change of organization or a reorganization removing territory from a member district will result in the termination of any existing entitlement of the territory to receive, or be furnished with, any governmental or proprietary service or commodity from the parent district, the question submitted to the voters shall so indicate.

57137. On the ballot opposite each question and to its right, the words "Yes" and "No" shall be printed on separate lines with voting squares.

57138. If the conducting authority orders both a merger and the

establishment of a subsidiary district, questions on each such matter shall be printed on the ballot, one above the other. Immediately preceding the first question, there shall be printed in the words "Vote on both questions."

57139. If a special election or elections is called upon an order of reorganization which provides for a consolidation or the formation of a new district, or both, or upon an order of consolidation, members of the legislative body and other officers of the consolidated district or the new district, as the case may be, shall be selected in the manner provided by the principal act. If the principal act or the terms and conditions of the reorganization or consolidation provide for the election of the officers or members, they shall be nominated in the manner provided in the principal act and shall be voted upon at the special election or elections upon the question of confirming the order of reorganization or consolidation. If the order of reorganization or consolidation is confirmed at the special election or elections, the officers or members of the legislative body of the consolidated district or the new district, as the case may be, who are elected at the election or elections shall become the officers or members of the legislative body of the consolidated district or new district.

57140. Where a special election is called upon the question of confirming an order for a change of organization or a reorganization, each person entitled to vote as a result of residing or owning land within the territory in which the election is called shall be entitled to ballots and votes as follows:

(a) In the case of cities or registered-voter districts, to one ballot and one vote.

(b) In the case of landowner-voter districts, to the number of ballots and votes authorized by the principal act of the district.

57141. Where a special election or elections are called upon the question of confirming an order for a merger or the establishment of a subsidiary district, or both, each person entitled to vote as a result of residing or owning land within the territory within which the election is called shall be entitled to ballots and votes as follows:

(a) Where the election is called only within the district:

(1) In the case of a registered-voter district, each registered voter shall be entitled to one ballot and one vote.

(2) In the case of a landowner-voter district, each landowner-voter shall be entitled to the number of ballots and votes authorized by the principal act of the district.

(b) Where one election is called within the district and another election is called within the territory of the city outside the boundaries of the agency:

(1) In the case of the city, each registered voter within the territory of the city outside the boundaries of the district shall be entitled to one city ballot and one vote on the question.

(2) In the case of the district, each person entitled to vote as a result of residing or owning land within the district shall be entitled

to the number of district ballots and votes authorized by the principal act of the district.

Where separate elections are called within both the district and the territory of the city outside the boundaries of the district, separate forms of city and district ballots, printed on different colors of paper, shall be provided. The city and district ballots shall be separately canvassed.

57142. Where a special election is called upon the question of confirming an order of reorganization, each person entitled to vote as a result of residing or owning land within the territory within which the election is called shall be entitled to ballots and votes as follows:

(a) Each person who qualifies only as a registered voter of any city or registered voter district, regardless of the number of registered voters, is entitled to one ballot and one vote.

(b) Each person who qualifies only as a landowner-voter of any subject district, regardless of the number of landowner voters, is entitled to the number of ballots and votes authorized by the principal act for one such district; if there is more than one such district, that person upon declaration made to the precinct or election officers shall be furnished with a ballot or ballots for the particular district designated by that person.

(c) Each person who qualifies both as a registered voter and as a landowner-voter of any of the subject agencies, may at his or her option vote either as a registered voter or as a landowner-voter, but not both. That person, upon declaration made to the precinct or election officers, shall be furnished with a ballot or ballots for the particular city or district designated by that person.

57143. In any special election or elections called upon the question of confirmation of an order for merger or the establishment of a subsidiary district or for a reorganization, where the results of the election or elections are to be determined from votes of both landowner-voters and registered voters, the votes of the landowner-voters shall be computed and equated with the votes of the registered voters in the following manner:

(a) First, the per capita assessed value of land for each registered voter within the county within which the elections are held shall be determined to the nearest even dollar by dividing the total assessed value of land within the county, as shown on the last equalized assessment roll of the county, by the total number of voters who were registered in the county at the close of registration, as provided in the Elections Code, next preceding the date of the election. If any landowner-voter district is located in more than one county, the per capita assessed value for each county shall be multiplied by a percentage, to the nearest one-tenth of 1 percent, those percentages being determined by dividing the total area of the district into the area of those portions of the district located within that county; the resulting products of those multiplications shall then be added and the total, to the nearest even dollar, shall be deemed to be the per

capita assessed value for all the counties.

(b) Second, if any such landowner-voter district does not use the county assessment roll for the purposes of levying and collecting district assessments or taxes, the per capita assessed value of land for each registered voter within the county shall be corrected by multiplying the per capita assessed value by a correction factor determined as follows: The total assessed valuation of all lands within the district, as shown upon the last equalized assessment roll or book of the district, shall be divided by the corresponding total assessed valuation of all lands within the district, as shown upon the last equalized assessment roll of the county, and the quotient, expressed to the nearest of two decimal places, shall represent the correction factor. If any landowner-voter district is located in more than one county, a correction factor shall be determined, in the manner above provided, for each such county covering all those portions of the district which are located within the county; the correction factor for each county shall then be multiplied by a percentage, to the nearest one-tenth of 1 percent, that percentage being determined by dividing the total area of the district into the area of those portions of the district located within that county; the resulting products of those multiplications shall then be added and the total, to the nearest of two decimal places, shall be deemed to be the correction factor for all the counties.

(c) Third, the corrected per capita assessed value, determined to the nearest even dollar, shall then be adjusted by dividing it by the number of dollars required for a single vote by a landowner-voter, as specified in the principal act determining the landowner-voter's right to vote.

(d) Fourth, the total number of votes cast by landowner-voters for and against the question shall be divided by the corrected and adjusted per capita assessed value and the quotients, to the nearest whole figures, shall be deemed to be the number of votes of landowner-voters which shall be equated with the votes of the registered-voters of any city or registered voter district, cast for and against the question.

57144. Within five days after a special election is called pursuant to this part, the conducting authority which has called the election shall transmit, by certified mail, a written notification of the election call to the executive officer of the commission of the county in which the affected territory is located. That written notice shall include a description of the boundaries of the affected territory as assigned by the commission. Written notice required by this section may be made in the form of a certified copy of the resolution adopted by the legislative body calling the election.

The executive officer shall submit to the commission, for its approval or modification, an impartial analysis of the proposed incorporation or change of organization.

The impartial analysis shall not exceed 500 words in length in addition to a general description of the boundaries of the territory

affected.

The commission shall approve or modify the analysis and submit the analysis to the clerk of the legislative body conducting the election no later than the last day for submission of rebuttal arguments.

57145. (a) The conducting authority, or any member or members of the conducting authority authorized by it, or any individual voter or association of citizens entitled to vote on the change of organization or reorganization, or any combination of those voters and association of citizens may file a written argument for, or a written argument against, the question to be submitted to the voters.

Arguments shall not exceed 300 words in length and shall be filed with the clerk of the conducting authority no later than the last day for submission of arguments specified by Section 57146.

(b) If more than one argument for or more than one argument against the proposal is filed with the clerk within the time prescribed in Section 57145, the clerk shall select one of the arguments for printing and distribution to the voters.

In selecting the arguments, the clerk shall give preference and priority in the order named to the following arguments:

(1) The conducting authority or any authorized member or members of the conducting authority.

(2) Individual voters or association of citizens or a combination of voters and associations.

57146. (a) On the basis of the time reasonably necessary to prepare and print the arguments, analysis, and sample ballots for the election, the clerk of the conducting authority shall fix and determine a reasonable date prior to the election after which no arguments for or against the measure may be submitted for printing and distribution to the voters. Notice of the date fixed shall be published in accordance with Section 56153 in a newspaper of general circulation which is circulated in the affected territory. Arguments may be changed until and including the date fixed by the clerk.

(b) The notice shall contain all of the following information:

(1) A statement of the proposition to be voted on and a general description of the boundaries of the affected territory.

(2) An invitation to any registered voter or association of citizens entitled to vote on the proposal to submit and file with the clerk for printing and distribution in the ballot pamphlet, an argument for or an argument against the proposal.

(3) The date of the election.

(4) A statement that only one argument for and one argument against will be selected and printed in the ballot pamphlet.

(5) A statement that arguments shall not exceed 300 words in length and shall be accompanied by not more than three signatures.

57147. Section 3787 of the Elections Code applies to the preparation and submittal of rebuttal arguments.

57148. (a) The clerk shall cause a ballot pamphlet concerning the proposal to be printed and mailed to each voter entitled to vote on the question.

The ballot pamphlet shall contain all of the following information in the order prescribed:

(1) The complete text of the proposition to be voted on.

(2) The impartial analysis of the proposition prepared by the commission.

(3) One argument for the proposal, if any.

(4) One rebuttal to the argument for the proposal, if any.

(5) One argument against the proposal, if any.

(6) One rebuttal to the argument against the proposal, if any.

(b) The clerk shall mail a ballot pamphlet to each voter entitled to vote in the election at least 10 days prior to the date of the election. The ballot pamphlet is "official matter" within the meaning of Section 10010 of the Elections Code.

57149. The canvass of ballots cast at any election held pursuant to this division shall be conducted pursuant to Sections 17080 to 17089, inclusive, of the Elections Code.

57150. All proper expenses incurred in conducting elections for a change of organization or reorganization pursuant to this chapter shall be paid, unless otherwise provided by agreement between the conducting authority and the proponents, as follows:

(a) In the case of annexation or detachment proceedings, by the local agency to or from which territory is annexed, or from which territory is detached, or was proposed to be annexed or detached.

(b) In the case of incorporation or formation proceedings, by the newly incorporated city or the newly formed district, if successful, or by the county within which the proposed city or district is located if the incorporation proceedings are terminated.

(c) In the case of disincorporation or dissolution proceedings, from the remaining assets of the disincorporated city or dissolved district or by the city proposed to be disincorporated or the district proposed to be dissolved if disincorporation or dissolution proceedings are terminated.

(d) In the case of consolidation proceedings, by the successor city or district or by the local agencies proposed to be consolidated, to be paid by those local agencies in proportion to their respective assessed values, if proceedings are terminated.

(e) In the case of a reorganization:

(1) If the reorganization is ordered, by the affected local agencies or successor local agencies, as the case may be, for any of the above-enumerated changes of organization which may be included in the particular reorganization, to be paid by those local agencies in proportion to their assessed value.

(2) If the reorganization proceedings are terminated or the proposal is defeated by the county within which the city is located.

CHAPTER 7. RESOLUTION CONFIRMING ELECTION RESULTS

57175. After the canvass of the returns of any election or elections called on the question of a change of organization or reorganization, the conducting authority shall declare by resolution the total number of votes cast in the election or elections, and the number of votes cast for and against the change of organization or reorganization.

57176. The conducting authority shall adopt a resolution confirming the order of the change of organization or reorganization if a majority of votes cast upon the question are in favor of the change of organization or reorganization in either of the following circumstances:

(a) At an election called in the territory ordered to be organized or reorganized.

(b) At an election called within the territory ordered to be organized or reorganized and within the territory of the affected agency. The clerk of the conducting authority shall cause a copy of the resolution confirming the order of organization or reorganization to be filed with the executive officer.

57177. The conducting authority shall adopt a resolution confirming either the order of a merger or the order for the establishment of a subsidiary district in the following manner:

(a) Where the question submitted to the voters was only upon merger or only upon establishment of a subsidiary district, the conducting authority shall adopt a resolution confirming the order if a majority of the votes cast on the question favored the order either:

(1) At an election called only within the district.

(2) At each election, where one election was called within the district and another election was called within the terrritory of the city outside the boundaries of the district.

(b) Where both the question of merger and the question of establishment of a subsidiary district were submitted to the voters within the district only and both questions were favored by a majority of the voters, the conducting authority shall order that change of organization favored by the greater number of voters. Where the number of votes was the same on both questions, the merger shall be ordered.

(c) Where both the question of merger and the question of establishment of a subsidiary district were submitted at an election called both within the district and at an election within the territory of the city outside the district boundaries, and both questions were favored by a majority of the voters in both areas, that change of organization receiving the greater number of votes in both elections shall be ordered. Where the number of votes was the same, or where the question of merger received the greater number of votes in one of the elections, a merger shall be ordered.

57177.5. In the case of elections on an order of consolidation of cities or districts, the conducting authority shall take one of the following actions:

(a) Adopt a resolution confirming the order of consolidation if, within the territory of each city or district ordered to be consolidated, a majority of the votes cast on the question favored the consolidation.

(b) Adopt a resolution terminating proceedings if, in one of the cities or districts ordered to be consolidated, the votes cast in favor of consolidation did not constitute a majority. A certified copy of the resolution shall be filed with the executive officer.

57178. In addition to any other requirements, the resolution confirming an order of incorporation or consolidation of cities shall do all of the following:

(a) Give the name of the new or successor city favored by the electors.

(b) Declare the persons receiving the highest number of votes for the several offices of the new or successor city to be elected to those offices.

(c) In the case of an incorporation, declare which system of electing council members was favored, that is, election by district or election at large; and declare whether the city manager form of government was favored by the electors.

57179. If the majority of the votes cast is against the change of organization or reorganization, the conducting authority by resolution shall terminate proceedings and file a certified copy of the resolution with the executive officer.

CHAPTER 8. COMPLETION AND EFFECTIVE DATE OF CHANGE OF ORGANIZATION OR REORGANIZATION

57200. (a) Immediately after adoption of a resolution ordering a change of organization or reorganization without election or a resolution confirming an order for a change of organization or reorganization after confirmation by the voters, the clerk of the conducting authority shall transmit a certified copy of the resolution along with a remittance to cover the fees required by Section 54902.5 to the executive officer.

(b) The executive officer shall examine the resolution and determine whether it is in compliance with the boundaries, modifications, and conditions specified by the commission in its resolution making determinations.

(1) If the resolution ordering the change of organization or reorganization is determined not to be in compliance by the executive officer, the executive officer shall specify in writing the points of noncompliance and return the resolution to the conducting authority for modification.

(2) If the resolution ordering the change of organization or reorganization is determined to be in compliance by the executive officer, the executive officer shall prepare and execute a certificate of completion and shall make the filings required by this division.

57201. The certificate of completion prepared and executed by

the executive officer shall contain all of the following information:

(a) The name of each newly incorporated city, each new district, and the name of each existing local agency for which a change of organization or reorganization was ordered and the name of the county within which any new or existing local agencies are located.

(b) A statement of each type of change of organization or reorganization ordered.

(c) A description of the boundaries of the new city ordered incorporated, the new district ordered formed or of any territory affected by the change of organization or reorganization, which description may be made by reference to a map and legal description showing the boundaries attached to the certificate.

(d) Any terms and conditions of the change of organization or reorganization.

(e) The date of adoption of the resolution ordering the change of organization or reorganization, without an election; or the date of adoption of the resolution confirming an order for the change of organization or reorganization after confirmation by the voters.

If any resolution contains the information required to be contained in the certificate, the executive officer may attach a certified copy of the resolution to the certificate and refer to the resolution in the certificate.

57202. (a) If an effective date is fixed in the terms and conditions or the resolution ordering or confirming the order of a change of organization or reorganization, that date shall be the effective date.

An effective date shall not be fixed which is either of the following:

(1) Earlier than the date of execution of the certificate of completion.

(2) Later than one year after the date of execution of the certificate of completion.

(b) The change of organization or reorganization shall be complete from the date of execution of the certificate of completion and effective from the dates specified in the terms and conditions of the resolution adopted by the conducting authority, unless no effective date has been fixed in those terms and conditions.

(c) If no effective date has been fixed in any of the terms and conditions, the effective date of a change of organization or a reorganization shall be the date of the recordation made with the county recorder and, if filed with the recorder of more than one county, the date of the last such recordation.

57203. The executive officer shall record a certified copy of the certificate of completion with the county recorder of each county in which all or any part of the boundaries of any new district formed or any territory ordered to be annexed to, or detached from, a district is located, and shall file a certified copy of the certificate of completion, indicating the recording numbers affixed by the county recorder, with the clerk of the legislative body of each local agency subject to the change of organization or reorganization.

After recordation of the certificate of completion by the executive

officer, the recorder shall file with the county surveyor a copy of the boundary description included in the certificate of completion as provided by subdivision (c) of Section 57201.

57204. The executive officer shall file the statement of boundary change or creation with the Board of Equalization, the county assessor, and the county auditor as may be provided for by Chapter 8 (commencing with Section 54900) of Part 1 of Division 2 of Title 5.

57205. For any change of organization or reorganization of a city, the executive officer shall, within 30 days after the recordation of the certificate of completion with the county recorder, file a notice with the Secretary of State briefly describing the change of organization or reorganization. The failure to file the notice within the time required by this section shall not affect any determination as to the completion of proceedings or the effective date of those proceedings.

PART 5. TERMS AND CONDITIONS AND EFFECT OF A CHANGE OF ORGANIZATION OR REORGANIZATION

CHAPTER 1. GENERAL

57300. Any proceeding completed pursuant to this division shall not alter or affect the boundaries of any Assembly or Senatorial district.

57301. If at any time between each decennial federal census, a city annexes or detaches territory or consolidates with another city, the city council of the city annexing or detaching the territory or the city council of the successor city, shall reexamine the boundaries of its council districts, if any, after the first census is taken or after the population estimates are obtained, following the annexation, detachment, or consolidation.

If, upon reexamination, the city council finds that the population of any council districts have varied so that the districts no longer meet the criteria specified in Section 35101 of the Elections Code, the city council shall, within 60 days after the census is taken, or population estimate received, by ordinance or resolution, adjust the boundaries of any or all of the council districts of the city so that the districts are as nearly equal in population as may be possible.

57302. The general provisions of this part shall apply only if, and to the extent that, the terms and conditions of any change of organization or reorganization do not make specific provision for any of the matters referred to in this part. If a change of organization or a reorganization specifically provides for, and is made subject to any of, the terms and conditions authorized by Section 56844, the specific terms and conditions shall control over the general provisions of this part. Any of those terms and conditions may be provided for, and be made applicable to, any affected county, affected city, or affected district, to all or any part of the territory of the county, city, or district, to any territory proposed to be annexed to the county, city,

or district and to the owner or owners of property within that territory.

57303. If no determination is made pursuant to subdivision (d) of Section 56844, the principal amount of bonded indebtedness which may be incurred or assumed by any city, county, or district, under any statute or charter provision imposing a limitation on bonded indebtedness, shall not be affected by any change of organization or reorganization.

CHAPTER 2. EFFECT OF ANNEXATION

57325. On and after the effective date of an annexation, the territory annexed to a city or district, all inhabitants of that territory, and all persons entitled to vote by reason of residing within that territory shall be subject to the jurisdiction of the city or district and, except as otherwise provided in this chapter, shall have the same rights and duties as if the territory had been a part of the city or district upon its original formation incorporation.

57326. As an alternative to any procedure prescribed by law for the division of taxes or assessments collected in a district lying partially or wholly in territory annexed by an incorporated city, the city and the district may enter into an agreement providing that the district shall continue to perform services for the annexed territory until the close of the fiscal year for which the district has levied taxes or assessments.

57327. No payment for the use, or right of use, of the existing property, real or personal, of any district or city shall be required by reason of the annexation of territory to that district or city.

57328. Any territory annexed to a city or district shall be liable for payment of principal, interest, and any other amounts which shall become due on account of any outstanding or then authorized but thereafter issued bonds, including revenue bonds, or other contracts or obligations of the city or district, but not of any improvement district within the district. It shall be subject to the levying or fixing and collection of any of the following which may be necessary to provide for that payment:

(a) Taxes or assessments.

(b) Service charges, rentals, or rates.

(c) Both taxes or assessments and service charges, rentals, or rates.

CHAPTER 3. EFFECT DETACHMENT

57350. Except as otherwise provided in this chapter, on and after the effective date of a detachment, the territory detached from a city or district, all inhabitants within the territory, and all persons formerly entitled to vote by reason of residing within the territory shall cease to be subject to the jurisdiction of the city or district and shall have none of the rights or duties of the remaining territory, inhabitants, or voters of the city or district.

57351. Unless otherwise provided in the terms and conditions of the detachment, the city from which territory is detached may from time to time levy and collect from the detached territory its just proportion of liability for payment of the interest and principal of debts of the city contracted prior to detachment.

57352. At any time, the detached territory may tender to the city council of the city or the legislative body of the district the amount for which the detached territory is liable. If tender is made, the authority of the city or district to levy taxes on the detached territory shall cease.

57353. No inhabitant, property owner, taxpayer, consumer, or user within territory detached from a district or city shall be entitled to either of the following:

(a) All or any part or to any payment on account of the moneys or funds, including cash on hand and moneys due but uncollected, or any property, real or personal, of the city or district.

(b) Any refund by reason of any taxes, assessments, service charges, rentals, or rates collected prior to the effective date of the detachment.

57354. Any territory detached from a city or district shall continue to be liable for the payment of principal, interest, and any other amounts which become due on account of any bonds, including revenue bonds, or other contracts or obligations of the district and any improvement district within which the detached territory has been situated, as are outstanding on the effective date of detachment. It shall be subject to the levying or fixing and collection of any of the following which may be necessary to provide for that payment:

(a) Taxes or assessments.

(b) Service charges, rentals, or rates.

(c) Both taxes or assessments and service charges, rentals, or rates.

CHAPTER 4. EFFECT OF INCORPORATION

57375. Except as otherwise provided in this chapter, on and after the effective date of an incorporation, the territory incorporated, all inhabitants within the territory, and all persons entitled to vote within the newly incorporated city by reason of residing in the city are subject to the jurisdiction of the city and shall have the rights and duties conferred on them as inhabitants and voters of the incorporated city.

57376. If the newly incorporated city comprises territory formerly unincorporated, the city council shall, immediately following its organization and prior to performing any other official act, adopt an ordinance providing that all county ordinances previously applicable shall remain in full force and effect as city ordinances for a period of 120 days after incorporation, or until the city council has enacted ordinances superseding the county ordinances, whichever occurs first. The ordinance shall provide that

no city ordinance enacted within that 120-day period of time be deemed to supersede any county ordinance unless the city ordinance specifically refers to the county ordinance, and states an intention to supersede it. Enforcement of the continuing county ordinances in the incorporated area shall be by the city, except insofar as enforcement services are furnished in accordance with Section 57384.

57377. Officers, except members of the city council, shall hold office until the first succeeding general municipal election held in the city and until their successors are elected and qualified. Of the five elected members of the city council, the three receiving the lowest number of votes shall hold office until the first succeeding general municipal election held in the city and until their successors are elected and qualified, and the two receiving the highest number of votes shall hold office until the second succeeding general municipal election held in the city and until their successors are elected and qualified. If two or more members of the city council are elected by the same number of votes, the terms of each shall be determined by lot. The members of the city council elected to succeed the members elected at the incorporation election shall hold office for four years from the Tuesday succeeding their election, and until their successors are elected and qualified.

57378. If the voters in the incorporation election determine that future city council members shall be elected "by districts," or "from districts," the provisions of Article 2 (commencing with Section 34870) of Chapter 4 of Part 1 of Division 2 shall apply to those elections.

57379. If the first general municipal election following an incorporation election will occur less than one year after the incorporation election, all of the city council members elected at the incorporation election shall hold office until the second general municipal election following the incorporation election and until their successors are elected and qualified. Of the five city council members elected at the second general municipal election, the three receiving the lowest number of votes shall hold office for two years and until their successors are elected and qualified, and the two receiving the highest number of votes shall hold office for four years and until their successors are elected and qualified. Subsequent city council members shall hold office for four years from the Tuesday succeeding their election, and until their successors are elected and qualified. This section applies only to city council members elected at an incorporation election held on or after September 15, 1961.

The first general municipal election following the incorporation election shall not be held unless either a proposition is to be voted upon or offices other than city council member offices are to be filled.

57380. Courts shall take judicial notice of the organization and existence of cities incorporated pursuant to this division.

57381. Immediately upon qualification of the elected officers, all

persons in possession of the offices of the city shall surrender the possession of the offices, though the terms of the offices for which they were elected or appointed have not expired.

57382. All officers, boards, and persons holding any property in trust for any city use shall convey that property to the city or officer entitled to the property.

57383. The board of supervisors of Los Angeles County may, by a two-thirds vote, convey any parking lot owned by the county and situated within the boundaries of an incorporated city to the city for public parking purposes, without consideration other than the agreement by the city to continue to use and maintain the property as a public parking lot.

This section applies only to parking lots acquired principally from revenues raised through onstreet or offstreet parking fees for the specific purpose of parking lot development, and does not apply to lots purchased through expenditures from the general fund or other means to serve as sites for other types of facilities.

The conveyance provided for by this section shall not occur until all liens or financial obligations attached to those lots have been satisfied.

57384. (a) Whenever a city has been incorporated from territory formerly unincorporated, the board of supervisors shall continue to furnish, without additional charge, to the area incorporated all services furnished to the area prior to the incorporation. Those services shall be furnished for the remainder of the fiscal year during which the incorporation became effective or until the city council requests discontinuance of the services, whichever occurs first.

(b) At the request of the city council, the board of supervisors, by resolution, may determine to furnish, without charge, to the area incorporated all or a portion of services furnished to the area prior to the incorporation for an additional period of time after the end of the fiscal year during which the incorporation became effective. The additional period of time after the end of the fiscal year during which the incorporation became effective for which the board of supervisors determines to provide services, without charge, and the specific services to be provided shall be specifically stated in the resolution adopted by the board of supervisors.

CHAPTER 5. EFFECT OF DISINCORPORATION

57400. Except as otherwise provided in this chapter, on and after the effective date of a disincorporation, the territory of the disincorporated city, all inhabitants within the territory, and all persons formerly entitled to vote by reason of residing within the territory shall cease to be subject to the jurisdiction of the disincorporated city and shall have none of the rights or duties of inhabitants or voters of a city.

57401. Prior to the effective date of the disincorporation, every public officer of the city shall turn over to the board of supervisors

the public property in his or her possession.

57402. After ascertaining that disincorporation has carried, the conducting authority shall determine and certify in a written statement to the board of supervisors the indebtedness of the city, the amount of money in its treasury, and the amount of any tax levy or other obligation due the city which is unpaid or has not been collected.

57403. Within 30 days after the disincorporation election but prior to the effective date of the disincorporation, the city council of the disincorporated city shall turn over to the county treasurer all city money in its possession.

57404. If the conducting authority does not provide the board of supervisors with the certified statement required by Section 57402, the board shall make the determinations provided for in that section.

57405. If a tax has been levied by the disincorporated city and remains uncollected, the county tax collector shall collect it when due and pay it into the county treasury.

57406. All property upon which any tax levied by the disincorporated city has become delinquent, and all property sold for any tax levied by the disincorporated city, may be redeemed by any interested party, on payment to the county treasurer of the sum which the auditor estimates would have been necessary to redeem the property if there had been no disincorporation.

57407. All money paid into the county treasury pursuant to this chapter shall be placed to the credit of a special fund established for the purpose of settling the affairs of the disincorporated city.

57408. Warrants for city indebtedness shall be drawn by the board of supervisors on the special fund.

57409. If there is not sufficient money in the treasury to the credit of the special fund to pay any city indebtedness, the board of supervisors shall cause to be levied, and there shall be collected from the territory formerly included within the city, taxes sufficient to pay the indebtedness as it becomes due.

57410. Any taxes levied pursuant to Section 57409 shall be assessed, levied, and collected in the same manner and at the same time as other county taxes, and are additional taxes upon the property included within the territory of the disincorporated city.

57411. Any surplus remaining in the special fund after the payment of any debts shall be, at the discretion of the board of supervisors, transferred to the school districts, community college districts, or districts included in the former city or used for the improvement of streets within the territory of the former city.

57412. The board of supervisors shall provide for collection of debts due the city and wind up its affairs. Upon an order by the board of supervisors, the appropriate county officer shall perform any act necessary for winding up the city affairs, with the same effect as if it had been performed by the proper city officer.

57413. The county succeeds to all of the rights of the city in the debts and may collect or sue for them in the name of the county.

57414. All costs and expenses incurred in winding up city affairs are part of the special fund.

57415. By ordinance, the board of supervisors may assume control of, and continue to administer, all electric, power, lighting, or gas plants and all systems of waterworks, street lighting, or any other public utility owned by the city at the time of its disincorporation.

57416. If the revenues from any public utility referred to in Section 57415 are not sufficient for its administration, conduct, or improvement, the board of supervisors shall levy a special tax upon all property within the disincorporated city. The special tax shall be levied upon the assessed value of the property as shown by the equalized assessment roll in effect on the first day of March of that year, and collected in the same manner and form of other county taxes.

57417. All sums collected shall be placed in a separate fund in the county treasury for the administration, conduct, and improvement of the public utility for which the tax is levied.

57418. If any city has within its boundaries, at the time of incorporation, at least two-thirds of the assessed value of an assessable property formerly contained within a disincorporated city, it becomes the owner of all public property formerly belonging to the disincorporated city and that proportion of the debts, liabilities, and credits owned by or due to the disincorporated city as the value of the assessable property of the disincorporated city lying within the boundaries of the new city bears to the value of all assessable property formerly contained within the disincorporated city. The value is that shown by the equalized assessment roll in effect in the fiscal year in which the city was disincorporated.

57419. No tax shall be levied upon any territory not included within the former limits of the disincorporated city for any debt or liability of the disincorporated city.

57420. Upon written request by the legislative body of a newly incorporated city, the board of supervisors shall cause the county auditor to prepare, without cost, a statement of the value of the assessable property in the disincorporated city and the value of that property now contained in the incorporated city. If the statement shows that at least two-thirds of the assessed value of all assessable property formerly contained within the disincorporated city is contained within the boundaries of the newly incorporated city, the board of supervisors shall fix the relative proportion by an order entered in the minutes, and the newly incorporated city is liable for that proportion of the debts and liabilities of the disincorporated city.

57421. The board of supervisors shall forward a certified copy of the order to the Secretary of State and the city clerk, and turn over to the city council all public property taken by the board of supervisors and the proportion of the special fund to which the city is entitled. Thereafter, ownership of, and title to, all public property formerly belonging to the disincorporated city is vested in the city as fully as if the property had been originally acquired by it.

57422. Annually, at the time other city taxes are levied and collected, the city council shall levy and collect a special tax on the territory of the disincorporated city within the limits of the city sufficient to pay its proportion of the bonded indebtedness as it becomes due.

57423. Annually, at the time other county taxes are levied and collected, the board of supervisors shall levy and collect a special tax on the remainder of the territory sufficient to pay the balance of the debt, and pay this sum to the city treasurer.

57424. With the proceeds of those taxes, the city treasurer shall pay the bonded indebtedness as it becomes due.

57425. If any property within the former limits of the disincorporated city was sold for taxes levied by that city, it may be redeemed or a tax bond issued as if the city had not disincorporated. Those proceedings shall be had and deeds issued in the name of the city in which the land is situated.

CHAPTER 6. EFFECT OF DISSOLUTION

57450. On and after the effective date of the dissolution of a district, the district shall be dissolved, disincorporated, and extinguished, its existence shall be terminated, and all of its corporate powers shall cease, except for the purpose of winding up the affairs of the district and as otherwise provided in this chapter.

57451. For the purpose of winding up the affairs of a dissolved district, the successor of the dissolved district shall be determined as follows:

(a) If the territory of a dissolved district is located entirely within the incorporated territory of a single city, the city is the successor.

(b) If the territory of a dissolved district is located entirely within the unincorporated territory of a single county, the county is the successor.

(c) If the territory of a dissolved district is located within the incorporated territory of more than one city or the unincorporated territory of more than one county, or any combination of the incorporated or unincorporated territory of two or more such cities and counties, the successor is that city whose incorporated territory or that county whose unincorporated territory shall, upon the effective date of dissolution, contain the greater assessed value of all taxable property within the territory of the dissolved district, as shown on the last equalized assessment roll or rolls of the county or counties.

(d) If the terms and conditions provide that all of the remaining assets of a dissolved district shall be distributed to a single existing district, the single existing district is the successor.

(e) If the terms and conditions provide that all of the remaining assets of a dissolved district shall be distributed to two or more existing districts, the successor is that existing district which, upon the effective date of dissolution, contains the greater assessed value

of all taxable property within the territory of the dissolved district, as shown on the last equalized assessment roll or rolls of the county or counties.

57452. Upon the effective date of dissolution control over all of the moneys or funds, including cash on hand and moneys due but uncollected, and all property, real or personal, of the dissolved district is vested in the successor for the purpose of winding up the affairs of the district.

57453. For the sole and exclusive purpose of winding up the affairs of the dissolved district, the successor and the officers and legislative body of the successor have the same powers and duties as the dissolved district and the officers and legislative body of the dissolved district and all of the following additional powers and duties:

(a) To exchange, sell, or otherwise dispose of all property, real and personal, of the dissolved district.

(b) To compromise and settle claims of every kind and nature.

(c) To sue or be sued in the same manner and to the same extent as the dissolved district and the officers and legislative body of the dissolved district.

These powers and duties shall commence upon the effective date of dissolution and shall continue thereafter until the time when the affairs of the dissolved district have been completely wound up.

57454. No inhabitant, property owner, taxpayer, consumer, or user within the territory of a dissolved district shall be entitled to either of the following:

(a) All or any part, or to any payment on account of the moneys or funds, including cash on hand and moneys due but uncollected, or any property, real or personal, of the dissolved district.

(b) Any refund by reason of any taxes, assessments, service charges, rentals, or rates collected prior to the effective date of dissolution.

57455. Any moneys and funds of the dissolved district and any moneys or funds received by the successor from the sale or other disposition of any property, real or personal, of the dissolved district shall be used to the extent necessary, for the payment of principal, interest and any other amounts then or thereafter due on account of any outstanding bonds, including revenue bonds, and other contracts or obligations of the dissolved district.

57456. (a) When the successor determines that payment, or provision for payment, has been made of all short-term obligations of the dissolved district, the successor shall distribute any of the remaining assets of the dissolved district in the manner provided in Section 57457.

(b) "Short-term obligations," as used in subdivision (a), includes all amounts which shall be due and payable, prior to the end of the fiscal year commencing next after the effective date of dissolution, upon any outstanding bonds, including revenue bonds, and other contracts or obligations of the dissolved district. All other obligations

shall be long-term obligations.

57457. Remaining assets of the dissolved district shall be distributed by the successor as follows:

(a) If the territory of the dissolved district is located entirely within the incorporated territory of a single city, all of the assets shall be distributed to that city.

(b) If the territory of the dissolved district is located entirely within the unincorporated territory of a single county, all the assets of the dissolved district shall be distributed to that county.

(c) If the territory of a dissolved district is located within the incorporated territory of more than one city, or the unincorporated territory of more than one county, or any combination of the incorporated or unincorporated territory of two or more such cities and counties, the assets of the dissolved district shall be apportioned between all such cities and counties and distributed as follows:

(1) All real property located within the incorporated territory of any city or within the unincorporated territory of any county, as the case may be, shall be distributed to that city or county.

(2) All moneys or funds including cash on hand and money due but uncollected and all personal property shall be divided among and distributed to each city or county in the proportion that the assessed value of the taxable property of the dissolved district within the incorporated territory of each city or within the unincorporated territory of each county shall bear to the total assessed value of all taxable property within the dissolved district, the assessed values being those shown upon the last equalized assessment roll or rolls of the county or counties upon the effective date of the dissolution.

57458. Until payment, or provision for payment, has been made of all principal, interest, and any other amounts owing on account of any outstanding long-term obligations, which are payable in whole or in part from taxes or assessments upon any property within all or any part of the territory of a dissolved district, the legislative body of the successor shall in each year provide for the levy and collection of taxes or assessments upon the property sufficient to pay any principal, interest, and any other amounts owing on account of such obligations, as they become due. Those taxes or assessments shall be levied and collected in the manner provided by the principal act of the dissolved district.

57459. Until payment, or provision for payment, has been made of all principal, interest, and any other amounts owing on account of any outstanding bonds, contracts, or other obligations which are payable in whole or in part from the revenues of a revenue-producing enterprise of the dissolved district, the successor shall not do either of the following:

(a) Sell, encumber, or otherwise dispose of all or any part of the revenue-producing enterprise or the revenues derived from that enterprise, except as expressly authorized by the ordinance, resolution, or indenture authorizing or providing for the issuance of any of the bonds, contracts, or other obligations.

(b) Distribute less than the whole of the revenue-producing enterprise to any city or county.

57460. If at the time of distribution more than one city or county or any combination of cities or counties are entitled to distribution of portions of a revenue-producing enterprise but the successor is unable to distribute the same because of Section 57459, the successor shall retain the revenue-producing enterprise and all revenues derived from that enterprise until payment, or provision for payment, has been made of all principal, interest, and any other amounts owing on account of outstanding bonds, contracts, or other obligations which are payable in whole or in part from the revenues of the enterprise, at which time the successor shall distribute the enterprise and any revenues derived therefrom in accordance with Section 57457.

57461. Where any bonds, contracts, or other obligations which are payable in whole or in part from the revenues of a revenue-producing enterprise are outstanding upon the effective date of dissolution, the successor, prior to distribution, or any city or county, after distribution, shall succeed to all rights and liabilities of the dissolved district under any ordinance, resolution, or indenture authorizing the bonds, contracts, or other obligations or providing for the issuance of the bonds, contracts, or other obligations and may sue or be sued upon those rights and liability in the same manner and to the same extent as the dissolved district.

57462. Any funds, money, or property of a dissolved district which have been impressed with any public trust, use, or purpose shall continue to be so impressed until that public trust, use, or purpose is vacated, abandoned, or terminated, in the manner provided by law.

57463. Subject to the provisions of Section 57462, any funds, money, or property of a dissolved district may be used by the successor for the purpose of winding up the affairs of the district and, after distribution to any city, county, or district may be used for any lawful purpose of the city, county, or district to which the funds, money, or property have been distributed. So far as may be practicable, the funds, money, or property shall be used for the benefit of the lands, inhabitants, and taxpayers within the territory of the dissolved district.

CHAPTER 7. EFFECT OF CONSOLIDATION OF CITIES

57475. If the successor city has a freeholder's charter, the successor city shall be governed as a new city under the freeholder's charter of the successor city. If the successor city was organized under former Part 2 (commencing with Section 35000) of Division 2 of Title 4, or its predecessors, the successor city shall be governed in the same manner as a new city. Except as otherwise provided in this chapter, the successor city shall be governed in the name of the successor city. If the electors have expressed a preference for the

name of the successor city, the successor city is deemed to have the name favored by the electors. The predecessor cities are dissolved and disincorporated and if any of them has a freeholder's charter, it is deemed surrendered and annulled and they are merged into the successor city. Immediately upon qualifying, the officers of the successor city who have been elected shall enter upon the duties of their offices and hold office until the next general municipal election and until their successors are elected and qualified. All persons in possession of, or occupying, the offices in each of the predecessor cities shall surrender them immediately to the proper officers of the successor city.

57476. Upon consolidation, the title to any property owned or held by, or in trust for, each predecessor city or by its officers or boards in trust for public use shall be vested in the successor city or its officers or boards.

57477. Except as otherwise provided in this division, consolidation does not affect any debts, demands, liabilities, or obligations of any kind existing in favor of or against the cities consolidated at the time of consolidation. Consolidation does not affect any pending action or proceeding involving any such debt, demand, liability, or obligation or any action or proceedings brought by or against any city prior to consolidation. The proceedings shall be continued and concluded by final judgment or otherwise as if consolidation had not been effected. Those rights or liabilities are the rights and liabilities of the successor city.

57478. Immediately upon consolidation, all ordinances of the predecessor cities are deemed repealed. That repeal shall not discharge any person from any existing civil or criminal liability nor affect any pending prosecution for violation of any of those ordinances.

57479. The repeal of ordinances provided by Section 57478 shall not apply to any of the following:

(a) Ordinances under which vested rights have accrued.

(b) Ordinances relating to proceedings for street or other public improvements.

(c) Ordinances relating to zoning or land use regulation.

(d) Proceedings for opening, extending, widening, straightening, or changing the grade of streets or other public places.

These proceedings shall be continued and conducted by the successor city with the same effect as if continued and conducted by the city which commenced them.

57480. On and after the effective date of the consolidation, all ordinances, if any, of the successor city shall have full effect throughout the successor city.

57481. Unless otherwise provided in the terms and conditions of the consolidation, the property in cities consolidated pursuant to this chapter shall not be taxed to pay any indebtedness or liability of any other city contracted or incurred prior to, or existing at, the time of consolidation.

57482. The city council of the successor city shall separately levy and collect the taxes necessary to pay the indebtedness or liability of each predecessor city within the territory of each predecessor city.

57483. Where the successor city is, or becomes, a chartered city, under a freeholder's charter providing that boroughs may be established in territories or cities annexed to or consolidated with it, this division does not prevent a predecessor city, or any part of it, from becoming a borough.

CHAPTER 8. EFFECT OF CONSOLIDATION OF DISTRICTS

57500. On and after the effective date of a consolidation, the consolidated district succeeds to all of the powers, rights, duties, obligations, functions, and properties of all predecessor districts which have been united or joined into the consolidated district. The territory of a consolidated district, all inhabitants within that territory, and all persons entitled to vote by reason of residing or owning land within the territory are subject to the jurisdiction of the consolidated district and, except as otherwise provided in this chapter, have the same rights and duties as if the consolidated district had been originally formed under the principal act.

57501. No payment for the use, or right of use, of any property, real or personal, acquired or constructed by any predecessor district shall be required by reason of the consolidation of the district with other predecessor districts.

57502. The territory of a consolidated district shall be liable for payment of principal, interest, and any other amounts which become due on account of any outstanding or then authorized but thereafter issued bonds, including revenue bonds, or other contracts or obligations of all predecessor districts, and are subject to the levying or fixing and collection of any of the following which may be necessary to provide for payment:

(a) Taxes or assessments.

(b) Service charges, rentals, or rates.

(c) Both taxes or assessments and service charges, rentals, or rates.

However, only the territory within an improvement district shall be liable for any payment required on account of any bonds, including revenue bonds, or other contracts previously authorized or issued by, or on behalf of, the improvement district.

CHAPTER 9. MERGERS AND THE ESTABLISHMENT OF SUBSIDIARY DISTRICTS

57525. On and after the effective date of a merger of a district of limited powers with a city, the district is extinguished, terminated, and its existence ceases, except as otherwise provided in this chapter.

57526. Upon the effective date of a merger, all of the moneys or funds, including cash on hand and moneys due but uncollected and all property, real or personal, of the merged district is vested in the

city.

57527. No inhabitant, property owner, taxpayer, consumer, or user within the territory of a merged district shall be entitled to either of the following:

(a) All or any part, or to any payment on account of the moneys or funds, including cash on hand and moneys due but uncollected, and any property, real or personal, of the merged district.

(b) Any refund by reason of any taxes, assessments, service charges, rentals, or rates collected prior to the effective date of merger.

57528. Any moneys and funds of the merged district and any moneys or funds received by the city from the sale or other disposition of any property, real or personal, of the merged district shall be used, to the extent necessary, for the payment of principal, interest, and any other amounts then or thereafter due on account of any outstanding bonds, including revenue bonds, and other contracts and obligations of the merged district.

57529. Until payment, or provision for payment, has been made of all principal, interest, and any other amounts owing on account of any outstanding obligations, which are payable in whole or in part from taxes or assessments upon any property within all or any part of the territory of a merged district, the city council shall in each year provide for the levy and collection of taxes and assessments upon the property sufficient to pay any principal, interest, and any other amounts owing on account of such obligations, as they become due. Those taxes and assessments shall be levied and collected in the manner provided by the principal act of the merged district.

57530. Until payment, or provision for payment, has been made of all principal, interest, and any other amounts owing on account of any outstanding bonds, contracts, or other obligations which are payable in whole or in part from the revenues of a revenue-producing enterprise of the merged district, the city shall not sell, encumber, or otherwise dispose of all or any part of the revenue-producing enterprise or the revenues derived from the enterprise, except as expressly authorized by the ordinance, resolution, or indenture authorizing the bonds, contracts, or other obligations or providing for the issuance of any bonds, contracts, or other obligations.

57531. Where any bonds, including revenue bonds, contracts, or other obligations of the merged district are outstanding upon the effective date of merger, the city succeeds to all of the rights and liabilities of the merged district under any ordinance, resolution, indenture, contract, or other obligation or providing for or authorizing the issuance of any bonds, contracts, or other obligations and may sue and be sued upon those rights and liabilities in the same manner and to the same extent as the merged district.

57532. Any funds, money, or property of a merged district which have been impressed with any public trust, use, or purpose shall continue to be so impressed until the public trust, use, or purpose is

vacated, abandoned, or terminated, in the manner provided by law.

57533. Subject to Section 57532, any funds, money, or property of a merged district may be used for any lawful purpose of the city. So far as may be practicable, as determined by the city council, any of these funds, money, or property shall be used for the benefit of the lands, inhabitants, and taxpayers within the territory of the merged district.

57534. On and after the effective date of an order establishing a district of limited powers as a subsidiary district of a city, the city council shall be designated as, and empowered to act as, ex officio the board of directors of the district. The district shall continue in existence with all of the powers, rights, duties, obligations, and functions provided for by the principal act, except for any provisions relating to the selection or removal of the members of the board of directors of the district.

57535. If any court determines that any incompatibility exists by reason of the same person or persons holding office both as a member of the city council and as a member of the board of directors of a subsidiary district, the court shall order the vacation of the office of that person as a member of the board of directors, but not as a member of the city council, and shall order the membership of the board of directors to be selected in the manner provided by the principal act.

CHAPTER 10. EFFECT OF REORGANIZATION

57550. On and after the effective date of a reorganization, each change of organization ordered for any city or district shall be given the force and effect pertaining to a change of organization of that type, as provided in this part.

SEC. 4. Division 1 (commencing with Section 56000) of Title 6 of the Government Code is repealed.

SEC. 5. Sections 1 to 4 of this act shall become operative January 1, 1986.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution 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. 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:

It is necessary for this act to take effect as soon as possible so that the provisions of other acts which amend, add, or repeal statutes affected by this act can be conformed to this act.

CHAPTER 542

An act to amend Sections 75.12, 214, and 2189.3 of the Revenue and Taxation Code, relating to taxation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 9, 1985 Filed with Secretary of State September 9, 1985]

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

SECTION 1. Section 75.12 of the Revenue and Taxation Code is amended to read:

75.12. (a) For the purposes of this chapter, new construction shall be deemed completed on the earliest of the following dates:

(1) The date upon which the new construction is available for use by the owner, unless the owner does not intend to occupy or use the property. The owner shall notify the assessor prior to, or within 30 days of, the date of commencement of construction that he or she does not intend to occupy or use the property. If the owner does not notify the assessor as provided in this subdivision, the date shall be conclusively presumed to be the date of completion.

(2) If the owner does not intend to occupy or use the property, the date the property is occupied or used with the owner's consent.

(3) If the property cannot be functionally used or occupied on the date it is available for use considering the type of property and any special facts and circumstances affecting use or occupancy, the date the property can be functionally used or occupied.

(b) For the purposes of this section:

(1) "Occupy or use" means the occupancy or use by the owner, including the rental or lease of the property, except as provided in paragraph (2).

(2) Property shall not be considered occupied or used by the owner or with the owner's consent if the occupancy or use is incidental to an offer for a change of ownership, including, but not limited to, use of the property as a model home.

(c) The board, after consultation with the California Assessors Association, shall adopt rules and regulations defining the date of completion of new construction in accordance with this section. The rules and regulations shall not define the date of completion in such a manner that the date of completion of all new construction is postponed until the following lien date.

(d) Nothing in this section shall preclude the reassessment of any such property on the assessment roll for March 1 following the date of completion.

(e) The owner of any property who notifies the assessor pursuant to subdivision (a) that he or she does not intend to occupy or use the property shall notify the assessor within 45 days of the earliest date that any of the following occur:

(1) The property changes ownership pursuant to an unrecorded contract of sale.

(2) The property is leased or rented.

(3) The property is occupied or used by the owner for any purpose other than provided in subdivision (b).

(4) The property is occupied or used with the owner's consent for any purpose other than provided in subdivision (b).

(f) The failure to provide the assessor the notice required by subdivision (e), whether requested or not, shall result in a penalty in the amount specified in Section 482.

SEC. 2. Section 214 of the Revenue and Taxation Code is amended to read:

214. (a) Property used exclusively for religious, hospital, scientific, or charitable purposes owned and operated by community chests, funds, foundations or corporations organized and operated for religious, hospital, scientific, or charitable purposes is exempt from taxation if:

(1) The owner is not organized or operated for profit; provided, that in the case of hospitals, such organization shall not be deemed to be organized or operated for profit, if during the immediate preceding fiscal year the excess of operating revenues, exclusive of gifts, endowments and grants-in-aid, over operating expenses shall not have exceeded a sum equivalent to 10 percent of such operating expenses. As used herein, operating expenses shall include depreciation based on cost of replacement and amortization of, and interest on, indebtedness.

(2) No part of the net earnings of the owner inures to the benefit of any private shareholder or individual.

(3) The property is used for the actual operation of the exempt activity, and does not exceed an amount of property reasonably necessary to the accomplishment of the exempt purpose.

(4) The property is not used or operated by the owner or by any other person so as to benefit any officer, trustee, director, shareholder, member, employee, contributor, or bondholder of the owner or operator, or any other person, through the distribution of profits, payment of excessive charges or compensations or the more advantageous pursuit of their business or profession.

(5) The property is not used by the owner or members thereof for fraternal or lodge purposes, or for social club purposes except where such use is clearly incidental to a primary religious, hospital, scientific, or charitable purpose.

(6) The property is irrevocably dedicated to religious, charitable, scientific, or hospital purposes and upon the liquidation, dissolution or abandonment of the owner will not inure to the benefit of any private person except a fund, foundation or corporation organized and operated for religious, hospital, scientific, or charitable purposes.

(7) The property, if used exclusively for scientific purposes, is used by a foundation or institution which, in addition to complying with the foregoing requirements for the exemption of charitable

organization in general, has been chartered by the Congress of the United States (except that this requirement shall not apply when the scientific purposes are medical research), and whose objects are the encouragement or conduct of scientific investigation, research and discovery for the benefit of the community at large.

The exemption provided for herein shall be known as the "welfare exemption." This exemption shall be in addition to any other exemption now provided by law and the existence of the exemption provision in paragraph (2) of subdivision (a) of Section 202 shall not preclude the exemption under this section for museum or library property. Except as provided in subdivision (e), this section shall not be construed to enlarge the college exemption.

(b) Property used exclusively for school purposes of less than collegiate grade and owned and operated by religious, hospital or charitable funds, foundations or corporations, which property and funds, foundations or corporations meet all of the requirements of subdivision (a), shall be deemed to be within the exemption provided for in subdivision (b) of Section 4 and Section 5 of Article XIII of the Constitution of the State of California and this section.

(c) Property used exclusively for nursery school purposes and owned and operated by religious, hospital or charitable funds, foundations or corporations, which property and funds, foundations or corporations meet all the requirements of subdivision (a), shall be deemed to be within the exemption provided for in subdivision (b) of Section 4 and Section 5 of Article XIII of the Constitution of the State of California and this section.

(d) Property used exclusively for a noncommercial educational FM broadcast station or an educational television station and owned and operated by religious, hospital, scientific or charitable funds, foundations or corporations meeting all of the requirements of subdivision (a), shall be deemed to be within the exemption provided for in subdivision (b) of Section 4 and Section 5 of Article XIII of the Constitution of the State of California and this section.

(e) Property used exclusively for religious, charitable, scientific, or hospital purposes and owned and operated by religious, hospital, scientific, or charitable funds, foundations, or corporations or educational institutions of collegiate grade, as defined in Section 203, which property and funds, foundations, corporations, or educational institutions meet all of the requirements of subdivision (a), shall be deemed to be within the exemption provided for in subdivision (b) of Section 4 and Section 5 of Article XIII of the Constitution of the State of California and this section.

(f) Property used exclusively for housing and related facilities for elderly or handicapped families and financed by, including, but not limited to, the federal government pursuant to Section 202 of Public Law 86-372 (12 U.S.C. Sec. 1701q), as amended, Section 231 of Public Law 73-479 (12 U.S.C. Sec. 1715v), or Section 236 of Public Law 90-448 (12 U.S.C. Sec. 1715z), and owned and operated by religious, hospital, scientific or charitable funds, foundations or corporations meeting all

of the requirements of this section shall be deemed to be within the exemption provided for in subdivision (b) of Section 4 and Section 5 of Article XIII of the Constitution of the State of California and this section. The amendment of this paragraph made at the 1983–84 Regular Session of the Legislature does not constitute a change in, but is declaratory of, the existing law. However, no refund of property taxes shall be required as a result of this amendment for any fiscal year prior to the fiscal year in which the amendment takes effect.

Property used exclusively for housing and related facilities for elderly or handicapped families at which supplemental care or services designed to meet the special needs of elderly or handicapped residents are not provided, or which is not financed by the federal government pursuant to Section 202 of Public Law 86-372 (12 U.S.C. Sec. 1701q), as amended, Section 231 of Public Law 73-479 (12 U.S.C. Sec. 1715v), or Section 236 of Public Law 90-448 (12 U.S.C. Sec. 1715), shall not be entitled to exemption pursuant to this subdivision unless the property is used for housing and related facilities for low- and moderate-income elderly or handicapped families. Property which would otherwise be exempt pursuant to this subdivision, except that it includes some housing and related facilities for other than low- or moderate-income elderly or handicapped families, shall be entitled to a partial exemption. The partial exemption shall be equal to that percentage of the value of the property which is equal to the percentage which the number of low- and moderate-income elderly and handicapped families occupying the property is of the total number of families occupying the property.

As used in this subdivision, "low and moderate income" has the same meaning as the term "persons and families of low or moderate income" as defined by Section 50093 of the Health and Safety Code.

SEC. 3. The addition of subdivision (e) to Section 214 of the Revenue and Taxation Code made by Section 2 of this act shall be operative for the 1986–87 fiscal year and fiscal years thereafter.

SEC. 3.5. The amendment of subdivision (f) of Section 214 of the Revenue and Taxation Code by Section 2 of this act is declaratory of the intent of the amendment of Section 214 of the Revenue and Taxation Code as amended by Chapter 1102 of the Statutes of 1984, and is operative for the 1985–86 fiscal year and fiscal years thereafter.

SEC. 4. Section 2189.3 of the Revenue and Taxation Code is amended to read:

2189.3. A tax on personal property belonging to an owner of real property on the secured roll located in the same county as the personal property, where the personal property is not located upon the real property on the lien date, is, on and after the lien date, a lien on the real property, having the force, effect and priority of a judgment lien from and after the lien date, if, on or before the lien date:

(a) The assessor, at his or her discretion, with the approval of the

board of supervisors, and at the request of the taxpayer, determines and issues to the taxpayer a certificate that the real property is sufficient to secure the payment of the tax.

(b) The taxpayer records the certificate with the county recorder.

Any tax which becomes a lien on the real property in accordance with this section shall be subject to the provisions of this division relating to the rate and date of payment of taxes on the secured roll for the current year; and in the event of any delinquency in the payment of such tax, the personal property on which it has been levied shall be subject to seizure and sale in accordance with Sections 2951 to 2963, inclusive, of this code.

This section does not apply to any tax which became a lien on the first Monday in March of 1958, and shall first be operative with respect to taxes levied for the fiscal year 1959–60.

SEC. 4.5. Section 2 of this act makes a classification or exemption of property for purposes of ad valorem property taxation within the meaning of Section 2229 of the Revenue and Taxation Code.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

The State Board of Equalization is in the process of drafting regulations to carry out the provisions of Section 75.12 of the Revenue and Taxation Code, and in order for these regulations to be subject to review by the Office of Administrative Law, it is necessary that this act take effect immediately.

CHAPTER 543

An act to amend Sections 1094 and 1095 of the Unemployment Insurance Code, to add Section 23910.3 to the Education Code, and to add Section 20143 to the Government Code, relating to public employee retirement systems.

[Approved by Governor September 9, 1985. Filed with Secretary of State September 9, 1985]

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

SECTION 1. Section 23910.3 is added to the Education Code, to read:

23910.3. Notwithstanding any other provision of law, the Employment Development Department shall disclose to the board information in its possession relating to the earnings of any person who is receiving a disability allowance from the system. The earnings information shall be released to the board only upon written request from the board specifying that the person is receiving a disability allowance from the system. The request may be made by the chief

executive officer of the system or by an employee of the system so authorized and identified by name and title by the chief executive officer in writing. The board shall notify recipients of disability allowances that earnings information from the Employment Development Department's records will be released upon request by the board. The board shall not release any earnings information received from the Employment Development Department to any person, agency, or other entity. The system shall reimburse the Employment Development Department for all reasonable administrative expenses incurred pursuant to this section.

SEC. 2. Section 20143 is added to the Government Code, to read:

20143. Notwithstanding any other provision of law, the Employment Development Department shall disclose to the board information in its possession relating to the earnings of any person who is receiving a disability retirement allowance from the system and has filed with the board a release permitting the employment development department to furnish that information. The earnings information shall be released to the board only upon written request from the board specifying that the person is receiving a disability retirement allowance from the system. The request may be made by the executive officer of the system or by an employee of the system so authorized and identified by name and title by the executive officer in writing. The board shall notify recipients of disability retirement allowances with prescribed limits based on earnings that earnings information from the Employment Development Department's records will be released upon request by the board. The board shall not release any earnings information received from the Employment Development Department to any person, agency, or other entity. The system shall reimburse the Employment Development Department for all reasonable administrative expenses incurred pursuant to this section. Any person receiving a disability retirement allowance who declines to authorize the release of earnings information as provided by this section shall instead furnish the board with such proof of earnings as the board may require, including, but not limited to, copies of the person's federal and state income tax returns.

SEC. 3. Section 1094 of the Unemployment Insurance Code is amended to read:

1094. (a) Except as otherwise specifically provided in this code, the information obtained in the administration of this code shall be for the exclusive use and information of the director in discharge of his or her duties and shall not be open to the public, nor admissible in evidence in any action or special proceeding, other than one arising out of the provisions of this code, one arising out of the provisions of Division 9 (commencing with Section 10000) of the Welfare and Institutions Code to determine entitlement to, and directly connected with and limited to the administration of, public social services, or a proceeding to determine entitlement to, and directly connected with and limited to the administration of, locally

provided general relief or assistance benefits or medical assistance services. This information may be tabulated and published in statistical form for the use and information of state departments and the public, except that the name of the employing unit or of any worker shall never be divulged in the course of the tabulation or publication.

(b) Notwithstanding subdivision (a), the department shall disclose to law enforcement agencies, in accordance with the provisions of subdivision (k) of Section 1095 and subdivision (b) of Section 2714, information in its possession relating to any person who has applied for or received benefits under this code if an arrest warrant has been issued for the person for commission of a felony.

(c) Notwithstanding subdivision (a), the department shall disclose to the State Teachers' Retirement System and to the Public Employees' Retirement System, in accordance with subdivision (m) of Section 1095, earnings information in its possession relating to any person receiving a disability allowance from the State Teachers' Retirement System or a disability retirement allowance from the Public Employees' Retirement System.

(d) Notwithstanding subdivision (a), the department shall disclose to the University of California Retirement System, in accordance with subdivision (n) of Section 1095, earnings information in its possession relating to any person who has applied for or is receiving disability income from the University of California Retirement System.

SEC. 4. Section 1095 of the Unemployment Insurance Code is amended to read:

1095. The director shall permit the use of any information in his or her possession to the extent necessary for any of the following purposes:

(a) To properly present a claim for benefits.

(b) To acquaint a worker or his or her authorized agent with his or her existing or prospective right to benefits.

(c) To furnish an employer or his or her authorized agent with information to enable him or her to fully discharge his or her obligations or safeguard his or her rights under this division or Division 3 (commencing with Section 9000). This subdivision, as it relates to Division 3 (commencing with Section 9000), shall apply only to subdivision (j) of this section.

(d) To enable an employer to receive a reduction in contribution rate.

(e) To enable the Director of Social Services or his or her representatives or the State Director of Health Services or his or her representatives, subject to federal law, to verify or determine the eligibility or entitlement of an applicant for, or a recipient of, public social services provided pursuant to the Welfare and Institutions Code, and directly connected with and limited to the administration of public social services.

(f) To enable county administrators of general relief or assistance,

or their representatives, to determine entitlement to locally provided general relief or assistance, where the determination is directly connected with, and limited to, the administration of general relief or assistance.

(g) To enable county district attorneys, or their representatives, to seek criminal, civil, or administrative remedies in connection with the unlawful application for, or receipt of, relief provided under Division 9 (commencing with Section 10000) of the Welfare and Institutions Code.

(h) To enable the director or his or her representative to carry out his or her responsibilities under this code.

(i) To enable county departments of collection or their representatives to determine entitlement to medical assistance services rendered pursuant to Part 5 (commencing with Section 17000) of Division 9 of the Welfare and Institutions Code, and, when appropriate, to enable collection for the county's expenditures for these medical assistance services.

(j) To furnish an employer, or his or her authorized agent, with information including, but not limited to, the applicant's or recipient's name, social security number, address, employable skills, and job placement in order to enable him or her to fully discharge his or her obligations or safeguard his or her rights under the elements of a joint union, management, and Employment Development Department agreement as are deemed necessary to assist displaced workers to obtain new employment under the provisions of Chapter 2.9 (commencing with Section 9970) of Part 1 of Division 3 and related provisions of Division 3 (commencing with Section 9000). The information shall be limited to any information gathered under these divisions by the department and authorized for release by the labor organization which shall act as an agent for the affected workers under terms of the agreement and shall participate in defining the information release provisions.

(k) To provide any law enforcement agency with the name, address, telephone number, birth date, social security number, and physical description of any person who has applied for or received benefits under this code, if an arrest warrant has been issued for the person for commission of a felony. The information shall be released to any law enforcement agency only upon a written request from the agency specifying that a warrant of arrest for the commission of a felony has been issued as to the applicant or recipient. This request may be made only by the head of the law enforcement agency, or by an employee of the agency so authorized and identified by name and title by the head of the agency in writing to the department. The department shall notify all applicants for benefits that release of confidential information from their records will not be protected should there be a felony arrest warrant issued against the applicant.

(l) This subdivision shall not be construed to authorize the release of a general list identifying individuals applying for or receiving benefits to any law enforcement agency.

(2) The provisions of this subdivision shall be operative only to the extent permitted by federal law and regulation, and to the extent the information is available and accessible within the constraints and configurations of existing department records.

(3) The department shall maintain records pursuant to this subdivision only for periods required under regulations or statutes enacted for the administration of its programs.

(*l*) Nothing in this section shall be construed to authorize or permit the use of information obtained in the administration of this code by any private collection agency.

(m) (1) To provide the State Teachers' Retirement System, pursuant to Section 23910.3 of the Education Code, with information relating to the earnings of any person who is receiving a disability allowance from the State Teachers' Retirement System. The earnings information shall be released to the Teachers' Retirement Board only upon written request from the board specifying that the person is receiving a disability allowance from the system. The request may be made by the chief executive officer of the system or by an employee of the system so authorized and identified by name and title by the chief executive officer in writing.

(2) To provide the Public Employees' Retirement System, pursuant to Section 20143 of the Government Code, with information relating to the earnings of any person who is receiving a disability retirement allowance from the Public Employees' Retirement System. The earnings information shall be released to the Board of Administration of the system only upon written request from the board specifying that the person is receiving a disability retirement allowance from the system. The request may be made by the executive officer of the system or by an employee of the system so authorized and identified by name and title by the executive officer in writing.

(n) To provide the University of California Retirement System with information in its possession relating to the earnings of any person who has applied for or is receiving disability income from the system. The earnings information shall be disclosed only upon written request from the system specifying that the person has applied for or is receiving disability income from the system. The request may be made by the chief administrative officer of the system or by an employee so authorized and identified by name and title by the chief administrative officer in writing. The system shall notify applicants for and recipients of disability income that earnings information from the department's records will be released upon the system's request. The information obtained pursuant to this subdivision shall be used or disclosed by the system only to determine or to verify entitlement to, or continuing eligibility for, disability income. The system shall reimburse the department for all reasonable administrative expenses incurred pursuant to this subdivision.

CHAPTER 544

An act to amend Sections 17717.5 and 17722 of the Education Code, relating to school facilities.

[Approved by Governor September 9, 1985. Filed with Secretary of State September 9, 1985.]

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

SECTION 1. Section 17717.5 of the Education Code is amended to read:

17717.5. (a) The board may approve, in whole or in part, an application submitted by a school district under Section 17717 or 17720 in such amount not exceeding the amount applied for as the board may deem appropriate.

(b) The board may, upon approval of the application, in whole or in part, and subsequently from time to time, make additional approvals not exceeding in the aggregate the total amount determined by the board as aforesaid for such portion or portions of the project for which the board determines the district is ready to proceed.

(c) Whenever a district files an application, the board shall require the district to submit a five-year plan for construction and rehabilitation of school facilities. The plan shall include, but not be limited to, facility need, type, and grade level, and a description of the district's compliance with Section 17722. The plan may be adjusted to reflect adjusted growth targets.

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 and sites 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.

CHAPTER 545

An act to add Section 1010.5 to the Evidence Code, relating to privileges.

[Approved by Governor September 9, 1985. Filed with Secretary of State September 9, 1985.]

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

SECTION 1. Section 1010.5 is added to the Evidence Code, to read:

1010.5. A communication between a patient and an educational psychologist, licensed under Article 5 (commencing with Section 4986) of Chapter 13 of Division 2 of the Business and Professions Code, shall be privileged to the same extent, and subject to the same limitations, as a communication between a patient and a psychotherapist described in subdivisions (c), (d), and (e) of Section 1010.

CHAPTER 546

An act to amend Sections 17245, 18500, 18510, 18523, and 18530 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 9, 1985. Filed with Secretary of State September 9, 1985]

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

SECTION 1. Section 17245 of the Revenue and Taxation Code is amended to read:

17245. In computing taxable income there shall be allowed as a deduction political contributions by any person not in excess of one hundred dollars ($100) (two hundred dollars ($200) on a joint return), in any year, including contributions which are designated pursuant to Section 18720.

SEC. 1.5. Section 18500 of the Revenue and Taxation Code is amended to read:

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 For the Prevention of Child Abuse" to allow for the designation permitted under subdivision (a).

(f) A deduction shall be allowed under Article 6 (commencing with Section 17201) of Chapter 3 for any contribution made pursuant to subdivision (a).

SEC. 2. Section 18510 of the Revenue and Taxation Code is amended to read:

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) A deduction shall be allowed under Article 6 (commencing with Section 17201) of Chapter 3 for any contribution made pursuant to subdivision (a).

SEC. 3. Section 18523 of the Revenue and Taxation Code is amended to read:

18523. Donations made to the account under this article may be claimed as a deduction under Article 6 (commencing with Section 17201) of Chapter 3 for the purpose of computing personal taxable income.

SEC. 4. Section 18530 of the Revenue and Taxation Code is amended to read:

18530. (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 18532. 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) A 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).

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 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 years beginning on or after the first day of the calendar year following the effective date.

CHAPTER 547

An act to add an article heading immediately preceding Section 2900 to, and to add and repeal Article 2 (commencing with Section 2930) of, Chapter 5 of Division 2 of the Vehicle Code, relating to traffic safety.

[Approved by Governor September 9, 1985. Filed with Secretary of State September 9, 1985.]

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

SECTION 1. An article heading is added to Chapter 5 (commencing with Section 2900) of Division 2 of the Vehicle Code, immediately preceding Section 2900 thereof, to read:

Article 1. Traffic Safety

SEC. 2. Article 2 (commencing with Section 2930) is added to Chapter 5 of Division 2 of the Vehicle Code, to read:

Article 2. Motorcycle Safety

2930. (a) "Commissioner" means the Commissioner of the California Highway Patrol.

(b) "Fund" means the California Motorcyclist Safety Fund.

(c) "Program" means the motorcyclist safety program established in this article.

2931. A motorcyclist safety program is hereby established in the Department of the California Highway Patrol, to be administered by the commissioner.

2932. The commissioner may, through contracts with other public agencies or with private entities, do all of the following:

(a) Provide financial or other support to projects aimed at enhancing motorcycle operation or safety, including, but not limited to, rider training programs. The rider training programs shall comply with criteria which the commissioner, in consultation with other state agencies and national motorcycle safety organizations, may adopt to provide validated rider safety training programs in the state.

(b) Sponsor and coordinate efforts aimed at increasing motorists' awareness of motorcyclists.

(c) Sponsor research into effective communication techniques to reach all highway users on matters of motorcyclist safety.

(d) Establish an advisory committee of persons from other state and local agencies with an interest in motorcycle safety; persons from the motorcycle industry; motorcycle safety organizations; motorcycle enthusiast organizations; and others with an interest in motorcycle safety, to assist in the establishment of a comprehensive program of motorcycle safety.

2933. The commissioner shall not directly manage or provide program services. Any program service financed under this article shall be provided under contractual arrangements or grant funding. All public agencies assisting or providing program services under this article shall be fully reimbursed for their costs by the commissioner. The commissioner shall monitor and evaluate any contracts or grants executed pursuant to this article to ensure that the provisions of the contracts or grants are adhered to by the recipients.

2934. (a) The California Motorcyclist Safety Fund is hereby created in the State Treasury. The money in the fund is available, when appropriated by the Legislature, to fund programs established pursuant to this article and to defray related costs incurred. Moneys in the fund are and shall be held as trust funds for the exclusive trust purposes specified in this article.

(b) The commissioner shall not in any way encumber moneys in the fund beyond that amount which is actually available in the fund at the time of encumbrance, and shall not in any manner pledge or encumber future revenues to accrue to the fund from any source.

2935. The Department of Motor Vehicles shall, in addition to other fees, collect a fee of two dollars ($2) upon initial registration and renewal of registration of every motorcycle subject to registration fees. These additional fees shall be deposited in the fund.

2936. (a) The commissioner shall report to the Legislature by January 15 of each year, commencing January 15, 1987, on all of the following:

(1) The condition of the fund.

(2) Identification of any contracts or grants made during the year.

(3) The amount of the grants or contracts.

(4) The services to be provided pursuant to the grants or contracts.

(5) The group or agency contracted with to provide the services.

(b) The final report shall be made by January 1, 1992.

2937. The fees specified in this article shall not be collected after December 31, 1990. However, the commissioner may continue to execute contracts and grants pursuant to Section 2932 with the remaining moneys in the fund.

2938. This article shall remain in effect only until January 1, 1992, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1992, deletes or extends that date.

CHAPTER 548

An act to amend Section 926.15 of the Government Code, relating to state government.

[Approved by Governor September 9, 1985. Filed with Secretary of State September 9, 1985.]

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

SECTION 1. Section 926.15 of the Government Code is amended to read:

926.15. (a) Any state agency which, without reasonable cause, fails to make any payment within 30 days of the required payment date to a small business or a nonprofit public benefit corporation awarded a contract with the agency to supply property or services, for an undisputed claim which was properly executed by the claimant and submitted to the agency, shall pay a penalty of .25 percent of the amount due, per day, from the 31st day after the required payment date. A nonprofit public benefit corporation shall only be eligible to receive a penalty payment if it has been awarded a contract in an amount less than five hundred thousand dollars ($500,000).

(b) In applying this section to claims submitted to the state, or to its fiscal intermediary, by providers of services or equipment under the Medi-Cal program, pursuant to Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code, payment for claims shall be due 30 days after a claim is received by the state or its fiscal intermediary, unless reasonable cause for nonpayment exists. With regard to Medi-Cal claims "reasonable cause" shall include review of claims to determine medical necessity, review of claims for providers subject to special prepayment fraud and abuse controls, and claims which require review by the fiscal intermediary or department due to special circumstances. Claims requiring special review as specified above shall not be eligible for a late payment penalty.

(c) Unless otherwise specified, for the purposes of this section, "reasonable cause" shall include review of a claim which is improperly executed by the claimant or for which additional evidence of the validity of the claim is required. If it is determined by the state agency that a claim was improperly executed or that additional evidence of the validity of the claim is required, the small business or nonprofit public benefit corporation shall be notified within 15 working days of receipt by the state agency that the claim needs correction or that additional evidence of validity is required. The required payment date for claims requiring correction or additional information establishing validity shall be 30 days from the date the corrected claim is received by the state agency.

(d) For the purposes of this section, "required payment date" means: (1) the date on which payment is due under the terms of the contract; or (2) if a specific date is not established by contract, the date upon which an invoice is received, if the invoice specifies payment is due upon receipt; or (3) if a specific date is not established by contract or invoice, 30 days after receipt of a proper

invoice for the amount of the payment due.

(e) For the purposes of this section, "small business" means any business so defined by regulations of the Department of General Services which implements this section.

(f) For the purposes of this section, "nonprofit public benefit corporation" means a corporation as defined by subdivision (b) of Section 5046 of the Corporations Code which has registered with the Department of General Services as a small business.

(g) Any penalty required to be paid by a state agency pursuant to this section shall be paid by the Controller out of the state agency's budget.

(h) When a state agency is required by this section to pay a penalty, it shall be presumed that the fault is that of the head of the state agency and, in such cases, the head of the state agency shall submit to the Legislature a report on the actions taken to correct the problem.

(i) Any state agency which requests that the Legislature make a deficiency appropriation for the agency shall identify what part of the requested amount is necessitated because of any penalties imposed by this section.

(j) Accrual of the penalty provided by subdivision (a) shall cease on the date a claims schedule for the claim is submitted to the Controller. For purposes of this section, the term "small business" shall, in referring to providers under the Medi-Cal program, mean a business:

(1) Where the principal office is located in California.

(2) Where the officers, if any, are domiciled in California.

(3) Which is independently owned and operated.

(4) Which is not dominant in its field of operation.

(5) Which, together with any affiliates, has gross receipts from business operations which do not exceed three million dollars ($3,000,000) per year, except that the State Director of Health Services may increase this amount if the director deems that this action would be in futherance of the intent of this section.

(k) No nonprofit public benefit corporation awarded a contract pursuant to this section shall be eligible for a late payment penalty if the state agency has failed to make timely payment because no Budget Act has been enacted.

CHAPTER 549

An act to amend Section 19531 of, and to add Sections 19549.3 and 19549.9 to, the Business and Professions Code, relating to horseracing, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 9, 1985. Filed with Secretary of State September 9, 1985.]

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

SECTION 1. Section 19531 of the Business and Professions Code is amended to read:

19531. The board shall make allocations of racing weeks, including simultaneous racing between zones, as it deems appropriate. The maximum number of racing weeks which may be allocated for horseracing other than at the California Exposition and State Fair, or county or district agricultural association fairs, shall be as follows:

(a) For thoroughbred racing: 40 weeks per year in the northern zone; 42 weeks per year in the central zone; and seven weeks per year in the southern zone.

(b) For harness racing: 25 weeks per year in the northern zone; 15 weeks per year in the central zone; and 10 weeks per year in the southern zone.

(c) For quarter horse racing: 25 weeks per year in the northern zone; and 25 weeks per year in the southern zone.

(d) In its written application for a license, an applicant shall state the time of day (subject to Section 19571) during which it will conduct its racing meeting, and particularly the first race starting time for the various racing days. After receiving a license, a licensee shall not change the first race starting time without securing prior approval of the board.

(e) Notwithstanding this section or any other provision in this chapter, the board shall not allocate dates to an association in the central zone for the purpose of conducting racing during daytime hours if a thoroughbred racing association is conducting racing in the southern zone on the same date during daytime hours.

SEC. 2. Section 19549.3 is added to the Business and Professions Code, to read:

19549.3. Notwithstanding Section 19549 or any other provision of this chapter, the board may annually allocate a maximum of 28 racing days to any county fair in the northern zone which did not conduct horseracing prior to January 1, 1985.

SEC. 3. Section 19549.9 is added to the Business and Professions Code, to read:

19549.9. Notwithstanding Sections 19482 and 19549, any weeks of harness racing or quarter horse racing allocated by the board to be raced at the facilities of a county fair which conducts its racing meeting pursuant to Section 19549.3 may be conducted by the fair. License fees for racing at the facilities of the county fair other than for the racing days allocated pursuant to Section 19549.3 are exempt from Section 19614.5.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within

the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to allow a more efficient allocation of harness and quarter horse racing dates so that revenues accruing to the state during the 1985–86 fiscal year can be maximized, it is necessary that this act take effect immediately.

CHAPTER 550

An act to repeal and add Section 4457 of the Government Code, relating to handicapped accessibility.

[Approved by Governor September 9, 1985 Filed with Secretary of State September 9, 1985.]

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

SECTION 1. Section 4457 of the Government Code is repealed.

SEC. 2. Section 4457 is added to the Government Code, to read:

4457. On or after January 1, 1986, all portable buildings purchased, leased, or constructed by a school district shall meet the requirements of this chapter, except as provided in subdivision (f) of Section 4451.

SEC. 3. Reimbursement to local agencies and school districts for costs mandated by the state pursuant to this act shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code and, if the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), shall be made from the State Mandates Claims Fund.

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 551

An act to add and repeal Article 1.5 (commencing with Section 1263) of Chapter 2 of Division 2 of the Health and Safety Code, relating to health facilities, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 9, 1985. Filed with Secretary of State September 9, 1985.]

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

SECTION 1. Article 1.5 (commencing with Section 1263) is added to Chapter 2 of Division 2 of the Health and Safety Code, to read:

Article 1.5. Special Swing Bed Designation

1263. The state department shall administer a demonstration project for the designation of swing beds, as defined in Section 1263.1, authorized in this article. In administering this project, the state department shall do all of the following:

(a) Verify application eligibility for the project, pursuant to Section 1263.3.

(b) Review and approve a general acute care hospital's application for beds to be designated as swing beds.

(c) Negotiate and grant exceptions to the licensure requirements for general acute care hospitals that are necessary to serve the purposes of this article if the granting of these exceptions does not jeopardize the health and welfare of the patients.

(d) Immediately upon the denial of an application for swing beds, notify the applicant in writing. Within 20 days after the state department mails the notice, the applicant may present a written petition for a hearing to the state department. Upon receipt by the state department of the petition in proper form, the petition shall be set for hearing. The proceedings shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the state department shall have all the powers granted therein.

(e) On behalf of approved hospitals, seek appropriate federal waivers consistent with this article.

1263.1. For the purposes of this article, the following definitions shall apply:

(a) "Swing beds" means beds licensed for general acute care, pursuant to Section 1250.1, which may, subject to this article, be used as skilled nursing beds, as classified in Section 1250.1. "Swing beds" shall retain the general acute care bed classification for the purposes of Part 1.5 (commencing with Section 437) of Division 1.

(b) "State department" means the State Department of Health Services.

(c) "Office" means the Office of Statewide Health Planning and Development.

1263.2. The office shall designate, at least annually, areas having an excess of general acute care beds and a shortage of skilled nursing beds. These areas shall correspond to the health facilities planning areas identified in the Statewide Health Facilities and Services Plan specified in subdivision (d) of Section 437.7. In making these designations, the office shall consider the need for general acute care and skilled nursing beds identified in the Statewide Health Facilities

and Services Plan, the number and utilization of swing beds previously designated in the area, the number of administrative days, as set forth in subdivision (c) of Section 1263.7, authorized by the state department, and other relevant factors. Other than as provided in this section, an acute care hospital shall be subject to the applicable requirements pertaining to approval of projects, as defined in Section 437.10, which are set forth in Part 1.5 (commencing with Section 437) of Division 1.

1263.3. (a) In order to be eligible for a special designation pursuant to this article, an applicant shall meet both of the following:

(1) The applicant shall be a licensed general acute care hospital, as defined in subdivision (a) of Section 1250, or a group thereof.

(2) The applicant shall be located within an area designated pursuant to Section 1263.2 as having an oversupply of acute care beds and a shortage of skilled nursing care beds.

(b) Any general acute care hospital may apply to the state department for designation of certain beds within that hospital or group of hospitals as swing beds.

1263.4. An application for designation of swing beds shall be submitted to the state department and shall contain all of the following:

(a) Identification of the number of licensed beds, their classification, the proposed number of swing beds, and a description of the way in which medical care shall be provided to these patients.

(b) A description of how the facility will account for Medi-Cal cost report purposes for the following:

(1) Direct and indirect cost associated with acute care and skilled nursing care.

(2) Charges associated with acute care and skilled nursing care.

(3) Patient stays for acute care and skilled nursing care.

(c) A description of how the facility shall provide for the transfer of long-term care patients when the need for acute care beds develops.

1263.5. Application for swing beds shall be approved or disapproved by the State Director of Health Services, after consultation with the Director of the Office of Statewide Health Planning and Development and representatives of the appropriate health systems agency, within 90 days after the application has been deemed complete. If after the time has elapsed, the acute care hospital so applying has received no notice of approval or disapproval from the State Director of Health Services, the application shall be deemed approved. The approval shall be solely for the purposes of the demonstration project authorized by this article, and for that limited purpose any changes in bed classification approved by the State Director of Health Services shall not require a certificate of need under any provision of law, including Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code.

In reviewing applications from more than one acute care hospital,

not all of which can be approved pursuant to paragraph (2) of subdivision (a) of Section 1263.3, the State Director of Health Services shall consider the cost and quality of skilled nursing care to be provided in the facility.

1263.6. If an acute care hospital has swing beds occupied for long-term care and is notified by a skilled nursing or intermediate care facility that it has beds available within a 25-mile radius of the hospital, the acute care hospital shall transfer appropriate patients to occupy the available beds. However, a skilled nursing or intermediate care facility shall accept and retain only patients for whom it can provide adequate care.

1263.7. (a) Medi-Cal reimbursement for use of swing beds designated pursuant to this article shall be made by the department at the current Medi-Cal acute care hospital distinct part rate if those beds are in use as skilled nursing beds and all the requirements of Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code are met.

(b) If swing beds are in use as acute care beds and that use is in conformance with requirements of Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code and this article, Medi-Cal reimbursement shall be at the hospital's Medi-Cal approved acute care rate.

(c) An acute care hospital designated to have swing beds shall not be reimbursed for administrative days, which are days authorized by the department of an acute level of care when a lower level of care would be appropriate but is locally unavailable, unless the hospital's designated swing beds are at full occupancy or the entire hospital is at 90 percent occupancy.

(d) Notwithstanding any other provision of this article, the State Director of Health Services may by regulations reduce the swing beds reimbursement rate, and in that event, the swing beds reimbursement rate shall not exceed the rate prescribed by regulations of the state director pursuant to this subdivision.

1263.8. (a) In accordance with the procedures prescribed in subdivision (d) of Section 1263, the state department shall terminate a hospital's swing bed designation authorized by this article if it finds that the hospital is not in compliance with this article or the welfare or safety of the patients served by the facility is adversely affected, or both.

(b) A hospital may terminate its swing bed designation subject to six months' advance notice to the state department and the Office of Statewide Health Planning and Development.

(c) Upon termination from the project, as prescribed by this section, the hospital beds shall revert to the same status held immediately preceding the hospital's participation in the demonstration project.

1263.9. (a) The Director of Health Services shall annually report to the Legislature, commencing July 1, 1986, on the effectiveness of swing bed designation and on the impact on reimbursement levels

and procedures of Medi-Cal and Medicare of those designations.

(b) Hospitals participating in a swing bed demonstration project shall submit an annual report to the state department and the Office of Statewide Health Planning and Development showing the bed utilization, including use of swing beds for patients who might previously have been sent home to wait for nursing home space, quality of care and facility cost impact, and overall effectiveness of the demonstration project.

1263.10. Implementation of this article shall be consistent with federal rules and regulations. The state department shall seek federal authorization for the implementation of this article. To the extent permitted by federal law, each department within the Health and Welfare Agency shall waive regulations and general policies and make resources available which are necessary for the administration of this article.

1263.11. 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 enacted before January 1, 1989, deletes or extends that date.

SEC. 1.5. The State Department of Health Services shall seek any federal waiver necessary to implement the Medi-Cal provisions of this act. Any Medi-Cal provision for which an appropriate federal waiver cannot be obtained shall not be implemented. Provisions of this act which may be implemented without a federal waiver shall be implemented notwithstanding any inability to obtain federal waivers for the other provisions. Upon federal approval of the demonstration project, as described in this section, the state department shall immediately transmit to the Senate and Assembly of the California Legislature a letter indicating the approval and the date thereof which shall be published in the Senate and Assembly Journals.

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 alleviate the critical shortage of available care for patients needing cost-effective, long-term, and subacute medical care, it is necessary that this act take effect immediately.

CHAPTER 552

An act to amend Sections 22053.1, 22054, 22451, 22451.1, 24053.1, 24054, 24451, and 24451.1 of, to amend and renumber Section 26054.1 of, to add Sections 22450.5 and 24450.5 to, and to repeal Sections 22054.1 and 24054.1 of, the Financial Code, relating to loans.

[Became law without Governor's signature. Filed with Secretary of State September 10, 1985.]

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

SECTION 1. Section 22053.1 of the Financial Code is amended to read:

22053.1. The following sections do not apply to any loan of a bona fide principal amount of five thousand dollars ($5,000) or more, or to a duly licensed personal property broker in connection with any such loan or loans, if the provisions of this section are not used for the purpose of evading this division: Sections 22004, 22005, and 22450, subdivisions (b), (c), (d), (e), (f), (j), (k), and (m) of Section 22452, Section 22453, subdivision (a) of Section 22454, and Sections 22455, 22459, 22460, 22462, 22463, 22464, 22480, and 22651.

SEC. 2. Section 22054 of the Financial Code is amended to read:

22054. In determining under Section 22053, 22053.1, 22451, or 22451.1 whether a loan is a loan of a bona fide principal amount of the specified amount or more and whether the provisions of the applicable section are used for the purpose of evading this division, the following principles apply:

(a) If a borrower applies for a loan in a principal amount of less than the specified amount and a loan to that borrower of a principal amount of the specified amount or more is made by a licensed personal property broker, no adequate economic reason for the increase in the size of the loan exists, and by prearrangement or understanding between the borrower and the licensee a substantial payment is to be made upon the loan with the effect of reducing the principal amount of the loan to less than the specified amount within a short time after the making of the loan other than by reason of a requirement that the loan be paid in substantially equal periodical installments, then the loan shall not be deemed to be a loan of the bona fide principal amount of the specified amount or more and the provisions of the applicable section shall be deemed to be used for the purpose of evading this division unless the loan complies with the provisions of this division relating to loans of less than the specified amount.

(b) A subsequent advance of money of less than the specified amount pursuant to a revolving or open end loan agreement or similar agreement between a borrower and a licensed personal property broker which gives the borrower the right to draw upon all or any part of the line of credit, or a loan agreement providing for the making of advances to the borrower from time to time up to an aggregate maximum amount which gives the borrower the right to draw all or any part of the total amount, shall be deemed to be a loan of a principal amount of the specified amount or more if the line of credit or the aggregate maximum amount, is the specified amount or more and the initial advance was the specified amount or more even though the actual unpaid balance after the advance or at any

other time is less than the specified amount.

(c) If a loan made by a licensed personal property broker is in a principal amount of the specified amount or more, the fact that the transaction is in the form of a sale of accounts, chattel paper, contract rights, goods, or instruments or a lease of goods, or in the form of an advance on the purchase price of any of the foregoing, shall not be deemed to affect the loan or the bona fides of the amount thereof or to indicate that the provisions of the applicable section are used for the purpose of evading this division.

(d) For the purposes of this section, "the specified amount" means ten thousand dollars ($10,000) with respect to noncommercial loans and five thousand dollars ($5,000) with respect to commercial loans when Section 22053 is the applicable section, five thousand dollars ($5,000) when Section 22053.1 is the applicable section, and two thousand five hundred dollars ($2,500) when Section 22451 or 22451.1 is the applicable section.

SEC. 3. Section 22054.1 of the Financial Code is repealed.

SEC. 4. Section 22450.5 is added to the Financial Code, to read:

22450.5. (a) Section 1670.5 of the Civil Code applies to the provisions of a loan contract which is subject to this division.

(b) A loan found to be unconscionable pursuant to Section 1670.5 of the Civil Code shall be deemed to be in violation of this division and subject to the remedies specified in this division.

SEC. 5. Section 22451 of the Financial Code is amended to read:

22451. Every licensee who lends any sum of money may contract for and receive charges at a rate not exceeding the sum of the following:

(a) 2½ percent per month on that part of the unpaid principal balance of any loan up to, including, but not in excess of two hundred twenty-five dollars ($225).

(b) 2 percent per month on that portion of the unpaid principal balance in excess of two hundred twenty-five dollars ($225) up to, including, but not in excess of nine hundred dollars ($900).

(c) 1½ percent per month on that part of the unpaid principal balance in excess of nine hundred dollars ($900) up to, including, but not in excess of one thousand six hundred fifty dollars ($1,650).

(d) 1 percent per month on any remainder of such unpaid balance in excess of one thousand six hundred fifty dollars ($1,650).

This section does not apply to any loan of a bona fide principal amount of two thousand five hundred dollars ($2,500) or more.

SEC. 6. Section 22451.1 of the Financial Code is amended to read:

22451.1. As an alternative to the charges authorized by Section 22451, a licensee may contract for and receive charges at the greater of the following:

(a) A rate not exceeding 1.6 percent per month on the unpaid principal balance.

(b) A rate not exceeding five-sixths of 1 percent per month plus a percentage per month equal to one-twelfth of the annual rate prevailing on the 25th day of the second month of the quarter

preceding the quarter in which the loan is made as established by the Federal Reserve Bank of San Francisco on advances to member banks under Sections 13 and 13a of the Federal Reserve Act as now in effect or hereafter from time to time amended, or if there is no such single determinable rate for advances, the closest counterpart of this rate as shall be determined by the Superintendent of Banks of the State of California. Charges shall be calculated on the unpaid principal balance.

This section does not apply to any loan of a bona fide principal amount of two thousand five hundred dollars ($2,500) or more.

SEC. 7. Section 24053.1 of the Financial Code is amended to read:

24053.1. The following sections do not apply to any loan of a bona fide principal amount of five thousand dollars ($5,000) or more, or to a duly licensed consumer finance lender in connection with any such loan or loans, if the provisions of this section are not used for the purpose of evading this division: Sections 24004, 24005, and 24450, subdivisions (b), (c), (d), (e), (f), (j), (k), and (m) of Section 24452, Section 24453, subdivision (a) of Section 24454, and Sections 24455, 24459, 24460, 24462, 24463, 24464, 24480, and 24651.

SEC. 8. Section 24054 of the Financial Code is amended to read:

24054. In determining under Section 24053, 24053.1, 24451, or 24451.1 whether a loan is a loan of a bona fide principal amount of the specified amount or more and whether the provisions of the applicable section are used for the purpose of evading this division, the following principles apply:

(a) If a borrower applies for a loan in a principal amount of less than the specified amount and a loan to that borrower of a principal amount of the specified amount or more is made by a licensed consumer finance lender, no adequate economic reason for the increase in the size of the loan exists, and by prearrangement or understanding between the borrower and the licensee a substantial payment is to be made upon the loan with the effect of reducing the principal amount of the loan to less than the specified amount within a short time after the making of the loan other than by reason of a requirement that the loan be paid in substantially equal periodical installments, then the loan shall not be deemed to be a loan of the bona fide principal amount of the specified amount or more and the provisions of the applicable section shall be deemed to be used for the purpose of evading this division unless the loan complies with the provisions of this division relating to loans of less than the specified amount.

(b) A subsequent advance of money of less than the specified amount pursuant to a revolving or open end loan agreement or similar agreement between a borrower and a licensed consumer finance lender which gives the borrower the right to draw upon all or any part of the line of credit, or a loan agreement providing for the making of advances to the borrower from time to time up to an aggregate maximum amount which gives the borrower the right to draw upon all or any part of the total amount, shall be deemed to be

a loan of a principal amount of the specified amount or more if the line of credit or the aggregate maximum amount is the specified amount or more and the initial advance was the specified amount or more even though the actual unpaid balance after the advance or at any other time is less than the specified amount.

(c) If a loan made by a licensed consumer finance lender is in a principal amount of the specified amount or more, the fact that the transaction is in the form of a sale of accounts, chattel paper, contract rights, goods, or instruments, or a lease of goods, or in the form of an advance on the purchase price of any of the foregoing, shall not be deemed to affect the loan or the bona fides of the amount thereof or to indicate that the provisions of the applicable section are used for the purpose of evading this division.

(d) For the purposes of this section, "the specified amount" means ten thousand dollars ($10,000) when Section 24053 is the applicable section, five thousand dollars ($5,000) when Section 24053.1 is the applicable section, and two thousand five hundred dollars ($2,500) when Section 24451 or 24451.1 is the applicable section.

SEC. 9. Section 24054.1 of the Financial Code is repealed.

SEC. 10. Section 24450.5 is added to the Financial Code, to read:

24450.5. (a) Section 1670.5 of the Civil Code applies to the provisions of a loan contract which is subject to this division.

(b) A loan found to be unconscionable pursuant to Section 1670.5 of the Civil Code shall be deemed to be in violation of this division and subject to the remedies specified in this division.

SEC. 11. Section 24451 of the Financial Code is amended to read:

24451. Every licensee who lends any sum of money may contract for and receive charges at a rate not exceeding the sum of the following:

(a) Two and one-half percent per month on that part of the unpaid principal balance of any loan up to, including, but not in excess of two hundred twenty-five dollars ($225).

(b) Two percent per month on that portion of the unpaid principal balance in excess of two hundred twenty-five dollars ($225) up to, including, but not in excess of nine hundred dollars ($900).

(c) One and one-half percent per month on that part of the unpaid principal balance in excess of nine hundred dollars ($900) up to, including, but not in excess of one thousand six hundred fifty dollars ($1,650).

(d) One percent per month on any remainder of such unpaid balance in excess of one thousand six hundred fifty dollars ($1,650).

This section does not apply to any loan of a bona fide principal amount of two thousand five hundred dollars ($2,500) or more.

SEC. 12. Section 24451.1 of the Financial Code is amended to read:

24451.1. As an alternative to the charges authorized by Section 24451, a licensee may contract for and receive charges at the greater of the following:

(a) A rate not exceeding 1.6 percent per month on the unpaid principal balance.

(b) A rate not exceeding five-sixths of 1 percent per month plus a percentage per month equal to one-twelfth of the annual rate prevailing on the 25th day of the second month of the quarter preceding the quarter in which the loan is made as established by the Federal Reserve Bank of San Francisco on advances to member banks under Sections 13 and 13a of the Federal Reserve Act as now in effect or hereafter from time to time amended, or if there is no such single determinable rate for advances, the closest counterpart of this rate as shall be designated by the Superintendent of Banks of the State of California. Charges shall be calculated on the unpaid principal balance.

This section does not apply to any loan of a bona fide principal amount of two thousand five hundred dollars ($2,500) or more.

SEC. 13. Section 26054.1 of the Financial Code is amended and renumbered to read:

26054. In determining whether a loan is a loan of a bona fide principal amount of the specified amount or more, the following principles shall apply:

(a) If a borrower applies for a loan in a principal amount of less than the specified amount and a loan to that borrower of a principal amount of the specified amount or more is made by a licensed commercial finance lender, no adequate economic reason for the increase in the size of the loan exists, and by prearrangement or understanding between the borrower and the licensee a substantial payment is to be made upon the loan with the effect of reducing the principal amount of the loan to less than the specified amount within a short time after the making of the loan other than by reason of a requirement that the loan be paid in substantially equal periodical installments, then the loan shall not be deemed to be a loan of the bona fide principal amount of the specified amount or more.

(b) A subsequent advance of money of less than the specified amount pursuant to a revolving or open end loan agreement or similar agreement between a borrower and a licensed commercial finance lender which gives the borrower the right to draw upon all or any part of the line of credit, or a loan agreement providing for the making of advances to the borrower from time to time up to an aggregate maximum amount which gives the borrower the right to draw all or any part of the total amount, shall be deemed to be a loan of a principal amount of the specified amount or more if the line of credit or the aggregate maximum amount is the specified amount or more and the initial advance was the specified amount or more even though the actual unpaid balance after the advance or at any other time is less than the specified amount.

(c) If a loan made by a licensed commercial finance lender is in a principal amount of the specified amount or more, the fact that the transaction is in the form of a sale of accounts, chattel paper, contract rights, goods, or instruments, or a lease of goods, or in the form of an

advance on the purchase price of any of the foregoing, shall not be deemed to affect the bona fides of the amount thereof.

(d) For the purposes of this section, "the specified amount" means five thousand dollars ($5,000).

CHAPTER 553

An act to add and repeal Section 975 of the Military and Veterans Code, relating to veterans, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 9, 1985. Filed with Secretary of State September 10, 1985]

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

SECTION 1. The Legislature finds and declares that the situation of homeless and destitute Vietnam veterans is of emergency proportions, comprising 30 to 40 percent of homeless persons in the Counties of Los Angeles and San Diego and the City and County of San Francisco, and that it is necessary to establish a pilot project in those areas to assist homeless Vietnam veterans in finding employment and obtaining available counseling and medical care.

SEC. 2. Section 975 is added to the Military and Veterans Code, to read:

975. (a) The Department of Veterans Affairs shall provide for two paid veterans assistant positions within the office of the county veteran service officer for the County of Los Angeles. The department shall establish one similar position for the County of San Diego and one similar position for the City and County of San Francisco. The department shall provide for filling these positions by contract with a private, nonprofit community-based organization which performs functions for persons similar to the functions performed by county veteran service officers for veterans.

(b) The veterans assistants employed under subdivision (a) shall make contact with homeless veterans through public and private agencies providing shelter for homeless persons. The veterans assistants shall advise and counsel needy veterans concerning employment, job training, medical care, and counseling benefits available to veterans, including federal benefits. The veterans assistants shall, to the extent possible, coordinate their efforts in this regard with public and private community-based organizations providing benefits available to veterans.

(c) The department shall prepare and submit to the Legislature a preliminary report on the operation and effects of this section on or before December 31, 1986, and a final report thereon on or before December 31, 1987.

(d) This section shall remain in effect only until January 1, 1988,

and on that date is repealed unless a later statute which is enacted before January 1, 1988, deletes or extends that date.

SEC. 3. The sum of two hundred thousand dollars ($200,000) is hereby appropriated from the General Fund to the Department of Veterans Affairs for purposes of Section 975 of the Military and Veterans 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 immediate and urgent relief for the many desperate and needy homeless Vietnam veterans in the Los Angeles, San Diego, and San Francisco areas, it is necessary for this act to take effect immediately.

CHAPTER 554

An act to amend Section 987.2 of the Penal Code, relating to legal assistance.

[Approved by Governor September 10, 1985 Filed with Secretary of State September 10, 1985]

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

SECTION 1. Section 987.2 of the Penal Code is amended to read:

987.2. (a) In any case in which a person, including a person who is a minor, desires but is unable to employ counsel and in which counsel is assigned in the superior court, municipal court, or justice court to represent the person in a criminal trial, proceeding or appeal, the assigned counsel, in a county or city and county in which there is no public defender, or in a case in which the court finds that because of conflict of interest or other reasons the public defender has properly refused to represent the person accused, shall receive a reasonable sum for compensation and for necessary expenses, the amount of which shall be determined by the court, to be paid out of the general fund of the county.

(b) The sum provided for in subdivision (a) may be determined by contract between the court and one or more responsible attorneys after consultation with the board of supervisors as to the total amount of compensation and expenses to be paid, which shall be within the amount of funds allocated by the board of supervisors for the cost of assigned counsel in such cases.

(c) In counties that utilize an assigned private counsel system as either the primary method of public defense or as the method of appointing counsel in cases where the public defender is unavailable, the county, the courts, or the local county bar association working with the courts are encouraged to do all of the following:

(1) Establish panels that shall be open to members of the State Bar of California.

(2) Categorize attorneys for panel placement on the basis of experience.

(3) Refer cases to panel members on a rotational basis within the level of experience of each panel, except that a judge may exclude an individual attorney from appointment to an individual case for good cause.

(4) Seek to educate those panel members through an approved training program.

(5) Establish a cost-efficient plan to insure maximum recovery of costs pursuant to Section 987.8.

(d) The board of supervisors may by contract provide that any public defender duly appointed or elected may charge reasonable fees to the Department of Corrections for representing inmates of prisons under its control, and the Department of Corrections may upon approval by the court pay such fees into the county treasury to be placed in the general fund of the county.

(e) Counsel shall be appointed to represent, in the municipal or justice court, a person who desires but is unable to employ counsel, when it appears that such appointment is necessary to provide an adequate and effective defense for defendant.

CHAPTER 555

An act to add and repeal Section 18114.1 of the Health and Safety Code, relating to registration fees for mobilehomes and manufactured housing, and making an appropriation therefor.

[Approved by Governor September 10, 1985. Filed with Secretary of State September 11, 1985.]

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

SECTION 1. Section 18114.1 is added to the Health and Safety Code, to read:

18114.1. (a) In addition to the annual registration fee required by Section 18114, an annual fee of five dollars ($5) shall be paid to the department at the time of registration or renewal for each transportable section of a manufactured home or mobilehome registered pursuant to this part. All revenues derived from this fee shall be deposited in the Mobilehome Park Purchase Fund provided for in Chapter 11 (commencing with Section 50780) of Part 2 of Division 31.

(b) This section shall remain in effect only until January 1, 1989, and, except as provided in subdivision (c), shall have no force or effect on or after that date, unless a later enacted statute which is enacted before January 1, 1989, deletes or extends that date.

(c) Notwithstanding subdivision (b), this section shall be treated as being fully operative for the purposes of collecting all fees imposed by subdivision (a) which become due and owing on or before December 31, 1988.

CHAPTER 556

An act to amend Sections 612, 613, 615, and 616 of, and to add Section 625 to, the Harbors and Navigation Code, relating to vessels, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 10, 1985. Filed with Secretary of State September 11, 1985]

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

SECTION 1. Section 612 of the Harbors and Navigation Code is amended to read:

612. No person may engage in the business of small boat towing within the state unless the following minimum requirements are met with respect to the conduct of the business:

(a) The vessel used in the business is under the command of a person who is either of the following:

(1) Determined by the director, pursuant to regulations adopted by the director, to be qualified to operate a towing vessel.

(2) In possession of a current certificate of competence for nonemergency commercial assistance from the California Maritime Academy.

(b) The vessel used in the business and the operator of the vessel are in compliance with all federal and state boating laws and all regulations adopted by the director.

SEC. 2. Section 613 of the Harbors and Navigation Code is amended to read:

613. (a) The owner or operator of a boat harbor or other moorage is not engaged in the business of small boat towing merely by reason of rendering aid or assistance to small boats (1) regularly berthed or moored in that harbor or moorage or (2) launched from that harbor or moorage.

(b) The owner or operator of a boat harbor or other moorage, or other marine facility, is not engaged in the business of small boat towing if the income, including any reimbursement of expenses incurred, from rendering aid or assistance to small boats, regardless of where berthed or moored or launched, does not exceed 5 percent of the owner's or operator's annual gross income from the boat harbor, moorage, or facility. The department may require of any owner or operator the documentation as may be necessary to establish the person's eligiblity for an exemption under this

subdivision.

SEC. 3. Section 615 of the Harbors and Navigation Code is amended to read:

615. The director shall issue a certificate of registration as a small boat towing service to any person upon receipt of proof satisfactory to the director of the applicant's compliance with this chapter and compliance with regulations adopted by the director pursuant to this chapter, including proof of adequate liability protection, and the payment of the fee established pursuant to Section 622. The liability protection shall be evidenced by a policy of insurance, a surety bond, or evidence of qualification as a self-insurer, as specified by the director, in an amount equal to five hundred thousand dollars ($500,000). The certificate of registration shall be valid for two years from the date of issuance and shall be renewed biennially thereafter. The applicant shall furnish to the director, and keep current, a schedule of fees for services provided by the applicant under this chapter.

SEC. 4. Section 616 of the Harbors and Navigation Code is amended to read:

616. (a) A certificate of registration shall be suspended if proof of insurance or financial responsibility, as required by the director, is not maintained. A certificate of registration may be suspended for violation of this code or any regulation adopted by the director pursuant to this code. If a certificate of registration is suspended, the holder of the certificate shall be notified by the department by certified mail. The period of suspension shall be determined by the department, but in no event shall the suspension be longer than one year.

(b) The department shall conduct all proceedings to suspend a certificate, as specified in subdivision (a), pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 5. Section 625 is added to the Harbors and Navigation Code, to read:

625. (a) It is the intent of the Legislature to repeal this chapter if fewer than 50 certificates of registration are issued by the department within a period of two years following implementation of regulations adopted pursuant to Section 621.

(b) The director shall prepare a report for submission to the Legislature on the number of certificates issued to applicants within the period specified in subdivision (a). The report shall be submitted to the Legislature not later than one month following the expiration of that period.

SEC. 6. The sum of one million seven hundred fifty thousand dollars ($1,750,000) is hereby appropriated from the Harbors and Watercraft Revolving Fund to the Department of Boating and Waterways for a loan to the City of Pittsburg for a marina project pursuant to Section 70.2 or 71.4 of the Harbors and Navigation Code.

SEC. 7. This act is an urgency statute necessary for the

immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

Since there is an urgent need to clarify existing law, so as to provide adequate protection for California's recreational boaters, who no longer may rely solely on the United States Coast Guard to render aid or assistance to boaters whose boats are distressed or disabled, and in order that plans and specifications may be drawn, and excavation, basin dredging, and slope protection may be undertaken, for the City of Pittsburg marina project in the 1985–86 fiscal year, it is necessary that this act take effect immediately.

CHAPTER 557

An act to repeal Sections 21293.5 and 21364.7 of the Government Code, relating to public employees' retirement, and making an appropriation therefor.

[Approved by Governor September 10, 1985. Filed with Secretary of State September 11, 1985.]

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

SECTION 1. Section 21293.5 of the Government Code is repealed.

SEC. 2. Section 21364.7 of the Government Code is repealed.

SEC. 3. The sum of seventy-nine thousand dollars ($79,000) is hereby appropriated from the General Fund to be allocated as follows:

(a) To the Public Employees' Retirement System for the state costs resulting from this act, thirty-eight thousand dollars ($38,000).

(b) To the State Mandates Claims Fund to reimburse local agencies and school districts pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code for costs mandated by the state and incurred by them pursuant to this act, forty-one thousand dollars ($41,000).

CHAPTER 558

An act to amend Section 1812.101 of the Civil Code, relating to discount buying services.

[Approved by Governor September 10, 1985. Filed with Secretary of State September 11, 1985.]

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

SECTION 1. Section 1812.101 of the Civil Code is amended to read:

1812.101. For the purpose of this title, the following definitions shall be used:

(a) "Discount buying organization" means any person or persons, corporation, unincorporated association, or other organization which, for a consideration, provides or purports to provide its clients or the clients or members of any other discount buying organization with the ability to purchase goods or services at discount prices, except that such organization shall not include: (1) any discount buying organization in which the total consideration paid by each client or member in any manner whatsoever for the purchase of discount buying services from such organization (a) does not exceed a one-time fee of fifty dollars ($50) or an annual fee of twenty-five dollars ($25) to be paid on a yearly basis, or (b) does not exceed a one-time or annual fee of fifty dollars ($50) and the organization provides a majority of the goods and services through purchases by members who walk in to a fixed location operated by the organization, or (2) any discount buying organization in which persons receive discount buying services incidentally as part of a package of services provided to or available to such individual on account of his membership in such organization, which is not organized for the profit of any person or corporation, and which does not have as one of its primary purposes or businesses, the provision of discount buying services.

(b) "Contract for discount buying services" means a contract between one party (hereinafter referred to as the "buyer") who is purchasing the service for personal or family use, and a discount buying organization, whereby the buyer for a consideration receives the right to obtain goods or services from the discount buying organization, or to utilize the discount buying organization services in obtaining goods and services, at discount prices.

(c) "Discount prices" means prices which are represented to be lower on most or all offered goods or services than those generally charged for such items in the locality in which the representation is made.

This definition is not intended to affect the degree of savings which must be offered on an item or selection of items in order to truthfully and without misleading consumers represent an item, selection of items, or entire store as being "discount" or "discounted."

CHAPTER 559

An act to add Section 230.8 to the Civil Code, relating to adoption.

[Approved by Governor September 13, 1985. Filed with Secretary of State September 13, 1985.]

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

SECTION 1. Section 230.8 is added to the Civil Code, to read:

230.8. (a) Notwithstanding any other provision of law, if an adoptee who has attained the age of 21 has filed his or her current address, a written request for contact with any biological sibling whose existence is known to him or her, and a written waiver of his or her rights with respect to the disclosure of his or her name and address to the sibling, with the State Department of Social Services or the adoption agency that joined in the petition for his or her adoption, and any such biological sibling of that person who has attained the age of 21 also has filed his or her current address, made such a request for contact, and filed a written waiver, if applicable, the department or the agency shall release to each of them the other's name and address. Upon inquiry, and upon proof that a person is the sibling of an adoptee who has filed a waiver pursuant to this section, the department or agency may advise him or her that such a waiver has been filed by the adoptee. The department or an agency may charge a reasonable fee, not to exceed fifty dollars ($50), for providing the service required by this section.

(b) An adoptee may revoke a waiver executed pursuant to this section by giving written notice to that effect to the department or agency.

(c) The State Department of Social Services shall adopt a form for the request authorized by this section, which shall provide for an affidavit to be executed by persons seeking to employ the procedure authorized by this section that to the best of his or her knowledge he or she is an adoptee or a sibling of an adoptee; the form also shall contain a notice of an adoptee's rights pursuant to subdivision (b) and a statement that information will be disclosed only if there is a currently valid waiver on file with the department or agency. The department may adopt regulations requiring such additional means of identification from a person making a request pursuant to this section as it deems necessary, and for the obtaining of the consent of the natural parents of the adoptee and the sibling in order to make the disclosure authorized by this section in any case in which the sibling remained in the custody and control of the natural parents until he or she attained the age of 18 years.

(d) The State Department of Social Services shall not solicit the execution of a waiver authorized by this section; however, the department shall announce the availability of the procedure authorized by this section, utilizing a means of communication

appropriate to effectively inform the public.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution 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 560

An act to amend Section 2924d of the Civil Code, relating to real property.

[Approved by Governor September 13, 1985. Filed with Secretary of State September 13, 1985.]

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

SECTION 1. Section 2924d of the Civil Code is amended 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 deed of trust. Any payment of a fee by a trustee 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 deed of trust shall be conclusively presumed to be lawful and valid if the fee, when combined with other fees of the trustee, does not exceed in the aggregate the trustee's fee authorized by subdivision (d) of Section 2924c or subdivision (a) or (b) of this section.

(e) When a court issues a decree of foreclosure, it shall have discretion to award attorney's fees, costs, and expenses as are reasonable, if provided for in the note, deed of trust, or mortgage, pursuant to Section 580c of the Code of Civil Procedure.

SEC. 2. The changes in Section 2924d of the Civil Code made by this act do not constitute a change in, but are declaratory of, the existing law.

CHAPTER 561

An act to add Section 89009 to the Education Code, relating to the California State University, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 13, 1985 Filed with Secretary of State September 13, 1985.]

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

SECTION 1. Section 89009 is added to the Education Code, to read:

89009. (a) It is the intent of the Legislature that public programs of postsecondary education be made available to qualified persons throughout this state, including areas of substantial existing or projected population that are isolated from any campus of the California State University.

(b) There is currently located in Ventura County the University Center at Ventura, an off-campus center that is jointly operated by the California State University, Northridge, and the University of California at Santa Barbara. The Legislature finds and declares that the operation of this center has demonstrated that educational programs at the upper division and graduate levels are welcomed and needed in Ventura County. It is the intent of the Legislature that the capacity of the University Center at Ventura, as an expanded and permanent off-campus center, to serve the future educational needs of the area be examined.

(c) Pursuant to the possible establishment of an expanded and permanent off-campus center as provided by subdivision (b), the trustees, in consultation with the Regents of the University of California, shall contract for the performance of a site selection study, and a detailed survey of Ventura County, as follows:

(1) The site selection study shall evaluate the comparative merits of sites under consideration for the center, including, but not limited to, an assessment of the potential at each site for physical development and expansion of the facility.

(2) The detailed survey of Ventura County shall include, but not be limited to, official population projections, an industry and income profile, an analysis of specific education program requirements of potentially qualified students, an assessment of the need for educational services at the postsecondary education level, an analysis of the current and future roles of the University Center at Ventura, and an assessment of the services currently provided by other public and private institutions of postsecondary education, including the University of California and the California Community Colleges.

(3) It is the intent of the Legislature that the study and survey address only the possible use of the University Center at Ventura as an expanded and permanent off-campus center pursuant to this

section.

(d) The trustees shall review the results of the study and survey, and shall forward the results to the California Postsecondary Education Commission for its review pursuant to Section 66904.

(e) The trustees shall develop explicit criteria for the approval of any proposals for the state-funded purchase or construction of off-campus centers of postsecondary education, and shall submit the criteria to the California Postsecondary Education Commission for its review. No later than July 1, 1986, the trustees shall submit the criteria to the Legislature, and the commission shall submit to the Legislature its recommendations concerning the criteria.

SEC. 2. The sum of two hundred fifty thousand dollars ($250,000) is hereby appropriated from the General Fund to the California State University for allocation, pursuant to the establishment of a permanent off-campus center as provided by Section 89009 of the Education Code, as follows:

(a) Two hundred thousand dollars ($200,000) for the performance of a site selection study.

(b) Fifty thousand dollars ($50,000) for a detailed survey of Ventura County.

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

In order to ensure the availability of adequate postsecondary level educational opportunities in Ventura County, at the earliest possible opportunity, it is necessary that this act take effect immediately.

CHAPTER 562

An act to add Section 309.5 to the Public Utilities Code, relating to the Public Utilities Commission.

[Approved by Governor September 13, 1985. Filed with Secretary of State September 13, 1985.]

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

SECTION 1. Section 309.5 is added to the Public Utilities Code, to read:

309.5. The commission shall create an organization or division within the commission to represent the interests of public utility customers and subscribers in commission proceedings. The commission shall, by rule or order, provide for the assignment of personnel to and the functioning of the organization or division.

CHAPTER 563

An act to amend Section 273.5 of the Penal Code, relating to arrest.

[Approved by Governor September 13, 1985. Filed with Secretary of State September 13, 1985.]

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

SECTION 1. Section 273.5 of the Penal Code is amended to read:

273.5. (a) Any person who willfully inflicts upon his or her spouse, or any person who willfully inflicts upon any person of the opposite sex with whom he or she is cohabiting, corporal injury resulting in a traumatic condition, is guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the state prison for 2, 3 or 4 years, or in the county jail for not more than one year.

(b) Holding oneself out to be the husband or wife of the person with whom one is cohabiting is not necessary to constitute cohabitation as the term is used in this section.

(c) As used in this section, "traumatic condition" means a condition of the body, such as a wound or external or internal injury, whether of a minor or serious nature, caused by a physical force.

CHAPTER 564

An act to add Section 95.6 to the Revenue and Taxation Code, relating to property taxation.

[Approved by Governor September 13, 1985 Filed with Secretary of State September 13, 1985]

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

SECTION 1. Section 95.6 is added to the Revenue and Taxation Code, to read:

95.6. The Controller shall regularly audit the apportionment and allocation by counties of property tax revenue pursuant to this chapter, in accordance with the following schedule:

(a) For counties with population in excess of 5,000,000 the audit shall be performed annually.

(b) For counties with population greater than 200,000 and less than 5,000,000, the audit shall be performed on a three-year cycle.

(c) For counties with population 200,000 or less, the audit shall be performed on a five-year cycle.

(d) The Controller may, at his or her discretion, perform audits more frequently than provided in subdivisions (b) and (c).

CHAPTER 565

An act to add Sections 59234.5 and 60016 to the Food and Agricultural Code, relating to agricultural marketing.

[Approved by Governor September 13, 1985. Filed with Secretary of State September 13, 1985.]

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

SECTION 1. Section 59234.5 is added to the Food and Agricultural Code, to read:

59234.5. (a) When the director makes a determination that a marketing program assessment payment due pursuant to this chapter is deficient as to the payment due, the director may determine the amount of the deficiency, including any applicable penalty, as provided in this section. After giving notice that a deficiency determination is proposed and an opportunity to file a report or provide supplemental information is provided, the director may make one or more deficiency determinations of the amount due for any reporting period based on information in the director's possession. When a business is discontinued, a deficiency determination may be made at any time thereafter as to liability arising out of the operation of that business.

The director shall give notice of the proposed deficiency determination and the notice of deficiency determination by placing the notice thereof in a sealed envelope with postage paid addressed to the person affected as it appears in the records of the marketing order or as otherwise available to the director. The giving of notice is complete at the time of deposit in the United States mail. In lieu of mailing, a notice may be served personally by delivering it to the person to be served.

Except in the case of fraud or failure to file a required return, a notice of a deficiency determination shall be given within four years of the accrual of the deficiency.

(b) The person against whom a deficiency determination is made may petition the director for redetermination within 30 days after the serving of the notice of deficiency determination. If a petition is not filed within 30 days, the deficiency determination shall become final.

A petition for redetermination shall be in writing, state the specific grounds upon which it is based, and be supported by applicable records and declarations under penalty of perjury that the information supporting the petition is accurate and complete. If a petition for redetermination is duly filed, the director shall reconsider the deficiency determination and may grant a hearing thereon. The director shall, as soon as practicable, make an order on redetermination, which shall become final 30 days after service of notice of the order of redetermination upon the petitioner. The

notice of the order shall be served in the same manner as the notice of the original deficiency determination.

(c) If any amount required to be paid pursuant to a deficiency determination or redetermination is not paid within the time specified in the notice thereof, the director may, within four years thereafter, file in the Superior Court for the County of Sacramento, or the superior court of any other county, a certificate specifying the amount required to be paid, the name and address of the person liable as it appears on the records of the director, and a request that judgment be entered against the person in that amount 30 days after the filing. Notice of the filing shall be given in the same manner as for the notice of deficiency determination. The court shall enter a judgment in conformance with the director's certificate 30 days after its filing, unless a petition for judicial review has been filed within the 30-day period.

An abstract of the judgment, or a copy thereof, may be filed with the county recorder of any county. From the time of filing of the judgment, the amount of the judgment constitutes a lien upon all of the property in the county owned by the judgment debtor. The lien has the force, effect, and priority of a judgment lien and shall continue for 10 years from the date of the judgment, unless sooner released or otherwise discharged. The lien imposed by this section is not valid insofar as personal property is concerned against a purchaser for value without actual knowledge of the lien.

Execution shall issue upon the judgment upon request of the director in the same manner as execution may issue upon other judgments, and sales shall be held under execution as prescribed in the Code of Civil Procedure.

(d) The person named in a notice of deficiency determination or redetermination may, within 30 days of the notice of filing with the superior court, file an action for judicial review thereof, as provided in subdivision (c), in the Superior Court for the County of Sacramento or, with the director's consent, the superior court of any other county where the Attorney General maintains an office. As a condition of staying entry of judgment or granting other relief, the court shall require the filing of a corporate surety bond with the director in the amount of the deficiency stated in the certificate. In any court proceeding, the certificate of the director determining the deficiency shall be prima facie evidence of the fee and the amount due and unpaid.

(e) The provisions of this section are supplemental to any other procedures for collection and imposition of fees and penalties provided by this chapter.

In lieu of proceeding pursuant to this section, the director may file a complaint for collection of unpaid assessments as provided by law.

SEC. 2. Section 60016 is added to the Food and Agricultural Code, to read:

60016. (a) When the director makes a determination that a marketing program fee payment due pursuant to this chapter is

deficient as to the payment due, the director may determine the amount of the deficiency, including any applicable penalty, as provided in this section. After giving notice that a deficiency determination is proposed and an opportunity to file a report or provide supplemental information is provided, the director may make one or more deficiency determinations of the amount due for any reporting period based on information in the director's possession. When a business is discontinued, a deficiency determination may be made at any time thereafter as to liability arising out of the operation of that business.

The director shall give notice of the proposed deficiency determination and the notice of deficiency determination by placing the notice thereof in a sealed envelope with postage paid addressed to the person affected as it appears in the records of the marketing order or as otherwise available to the director. The giving of notice is complete at the time of deposit in the United States mail. In lieu of mailing, a notice may be served personally by delivering it to the person to be served.

Except in the case of fraud or failure to file a required return, a notice of a deficiency determination shall be given within four years of the accrual of the deficiency.

(b) The person against whom a deficiency determination is made may petition the director for redetermination within 30 days after the serving of the notice of deficiency determination. If a petition is not filed within 30 days, the deficiency determination shall become final.

A petition for redetermination shall be in writing, state the specific grounds upon which it is based, and be supported by applicable records and declarations under penalty of perjury that the information supporting the petition is accurate and complete. If a petition for redetermination is duly filed, the director shall reconsider the deficiency determination and may grant a hearing thereon. The director shall, as soon as practicable, make an order on redetermination, which shall become final 30 days after service of notice of the order of redetermination upon the petitioner. The notice of the order shall be served in the same manner as the notice of the original deficiency determination.

(c) If any amount required to be paid pursuant to a deficiency determination or redetermination is not paid within the time specified in the notice thereof, the director may, within four years thereafter, file in the Superior Court for the County of Sacramento, or the superior court of any other county, a certificate specifying the amount required to be paid, the name and address of the person liable as it appears on the records of the director, and a request that judgment be entered against the person in that amount 30 days after the filing. Notice of the filing shall be given in the same manner as for the notice of deficiency determination. The court shall enter a judgment in conformance with the director's certificate 30 days after its filing, unless a petition for judicial review has been filed within the

30-day period.

An abstract of the judgment, or a copy thereof, may be filed with the county recorder of any county. From the time of filing of the judgment, the amount of the judgment constitutes a lien upon all of the property in the county owned by the judgment debtor. The lien has the force, effect, and priority of a judgment lien and shall continue for 10 years from the date of the judgment, unless sooner released or otherwise discharged. The lien imposed by this section is not valid insofar as personal property is concerned against a purchaser for value without actual knowledge of the lien.

Execution shall issue upon the judgment upon request of the director in the same manner as execution may issue upon other judgments, and sales shall be held under execution as prescribed in the Code of Civil Procedure.

(d) The person named in a notice of deficiency determination or redetermination may, within 30 days of the notice of filing with the superior court, file an action for judicial review thereof, as provided in subdivision (c), in the Superior Court for the County of Sacramento or, with the director's consent, the superior court of any other county where the Attorney General maintains an office. As a condition of staying entry of judgment or granting other relief, the court shall require the filing of a corporate surety bond with the director in the amount of the deficiency stated in the certificate. In any court proceeding, the certificate of the director determining the deficiency shall be prima facie evidence of the fee and the amount due and unpaid.

(e) The provisions of this section are supplemental to any other procedures for collection and imposition of fees and penalties provided by this chapter.

In lieu of proceeding pursuant to this section, the director may file a complaint for collection of unpaid fees as provided by law.

SEC. 3. No reimbursement shall be made from the State Mandates Claims Fund pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code for costs mandated by the state pursuant to this act. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Part 7 (commencing with Section 17500) and any other provisions of law.

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 566

An act to add and repeal Section 23014.5 of the Government Code, relating to Sonoma County, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 13, 1985. Filed with Secretary of State September 13, 1985]

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

SECTION 1. Section 23014.5 is added to the Government Code, to read:

23014.5. (a) Pursuant to a resolution adopted by a four-fifths vote of all of the members of the Board of Supervisors of Sonoma County, the county may appropriate any of its available moneys to a revolving fund not to exceed four million dollars ($4,000,000) to be used for a public purpose of the County of Sonoma, as determined by its board of supervisors, by any county water district, county sanitation district, flood control district, or county maintenance district, located wholly within the county, for the acquisition of real or personal property, environmental impact studies, fiscal analysis, engineering services, or the construction of structures or improvements needed for district purposes. The revolving fund shall be reimbursed by a district receiving funds pursuant to this section as provided for in Section 23014.

(b) This section shall remain in effect only until January 1, 1991, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1991, deletes or extends such date.

SEC. 2. The County of Sonoma faces unique problems in upgrading existing facilities and constructing new facilities for wastewater collection, treatment and disposal. The Sonoma County Public Works Department anticipates having seven construction contracts underway in this regard in the near future and the simultaneous cash demand needs of such contracts exceeds the five hundred thousand dollars ($500,000) ceiling provided in existing law for county assistance. In order to solve those problems, it is necessary for the County of Sonoma to be authorized to provide four million dollars ($4,000,000) of assistance to the projects. Because of the special situation involving the County of Sonoma, a general law may not be made applicable within the meaning of Section 16 of Article IV of the Constitution and it is necessary that this special act be adopted.

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:

Various construction projects in Sonoma County with respect to the upgrading and construction of wastewater collection, treatment,

and disposal facilities have obtained financial assistance under the State Clean Water Grant Program and the Federal Water Pollution Control Act of 1972. In order to resolve certain cash flow problems which will occur during the actual construction periods of those projects and to ensure that projects are constructed, it is necessary that this act take effect immediately.

CHAPTER 567

An act to amend Section 2782 of, and to add Section 2782.2 to, the Civil Code, relating to indemnity.

[Approved by Governor September 13, 1985 Filed with Secretary of State September 13, 1985]

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

SECTION 1. Section 2782 of the Civil Code is amended to read:

2782. (a) Except as provided in Sections 2782.1, 2782.2, and 2782.5, provisions, clauses, covenants, or agreements contained in, collateral to, or affecting any construction contract and which purport to indemnify the promisee against liability for damages for death or bodily injury to persons, injury to property, or any other loss, damage or expense arising from the sole negligence or willful misconduct of the promisee or the promisee's agents, servants or independent contractors who are directly responsible to such promisee, or for defects in design furnished by such persons, are against public policy and are void and unenforceable; provided, however, that this provision shall not affect the validity of any insurance contract, workers' compensation or agreement issued by an admitted insurer as defined by the Insurance Code.

(b) Except as provided in Sections 2782.1, 2782.2, and 2782.5, provisions, clauses, covenants, or agreements contained in, collateral to, or affecting any construction contract with a public agency which purport to impose on the contractor, or relieve the public agency from, liability for the active negligence of the public agency shall be void and unenforceable.

SEC. 2. Section 2782.2 is added to the Civil Code, to read:

2782.2. (a) Nothing contained in subdivision (a) of Section 2782 prevents an agreement to indemnify a professional engineer against liability for the negligence of the engineer, or the engineer's agents or employees, in providing inspection services to plants or other facilities if all the following criteria are satisfied:

(1) The promisor is the owner of the plants or facilities inspected.

(2) The promisor is audited annually by an independent certified public accountant, public accountant, or accounting licentiate of another state authorized by the laws of that state to perform the audit.

(3) The net worth of the promisor exceeds ten million dollars ($10,000,000), as determined by the promisor's most recent annual independent audit. The requirement of this paragraph shall be satisfied at the time the contract for indemnification is entered, and a subsequent reduction of the promisor's net worth shall not void the obligation to indemnify.

(4) The promisor is self-insured with respect to liability arising from ownership of the plant or facility.

(5) The indemnification shall not be applicable to the first two hundred fifty thousand dollars ($250,000) of liability.

(b) Subdivision (a) does not authorize contracts for indemnification of liability arising from willful misconduct.

CHAPTER 568

An act to amend Section 10980 of the Welfare and Institutions Code, relating to food stamps, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 13, 1985. Filed with Secretary of State September 13, 1985]

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

SECTION 1. Section 10980 of the Welfare and Institutions Code is amended to read:

10980. (a) Any person who, willfully and knowingly, with the intent to deceive, makes a false statement or representation or knowingly fails to disclose a material fact in order to obtain aid under the provisions of this division or who, knowing he or she is not entitled thereto, attempts to obtain aid or to continue to receive aid to which he or she is not entitled, or to receive a larger amount than that to which he or she is legally entitled, is guilty of a misdemeanor, punishable 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.

(b) Any person who knowingly makes more than one application for aid under the provisions of this division with the intent of establishing multiple entitlements for any person for the same period or who makes an application for such aid for a fictitious or nonexistent person or by claiming a false identity for any person is guilty of a felony, punishable by imprisonment in the state prison for a period of 16 months, two years, or three years, a fine of not more than five thousand dollars ($5,000), or by both such imprisonment and fine, or by imprisonment in the county jail for a period of not more than one year, or a fine of not more than one thousand dollars ($1,000), or by both such imprisonment and fine.

(c) Whenever any person has, by means of false statement or

representation or by impersonation or other fraudulent device, obtained or retained aid under the provisions of this division for himself or herself or for a child not in fact entitled thereto, the person obtaining such aid shall be punished as follows:

(1) If the total amount of such aid 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 total amount of such aid obtained or retained is more than four hundred dollars ($400), by imprisonment in the state prison for a period of 16 months, two years, or three years, a fine of not more than five thousand dollars ($5,000), or by both such imprisonment and fine; or by imprisonment in the county jail for a period of not more than one year, or a fine of not more than one thousand dollars ($1,000), or by both such imprisonment and fine.

(d) Any person who knowingly uses, transfers, acquires, or possesses blank authorizations to participate in the federal Food Stamp Program in any manner not authorized by Chapter 10 (commencing with Section 18900) of Part 6 with the intent to defraud is guilty of a felony, punishable by imprisonment in the state prison for a period of 16 months, two years, or three years, a fine of not more than five thousand dollars ($5,000), or by both such imprisonment and fine.

(e) Any person who 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.

(f) Any person who fraudulently appropriates food stamps or authorizations to participate in the federal Food Stamp Program with which he or she has been entrusted pursuant to his or her duties as a public employee is guilty of embezzlement of public funds.

(g) Whoever knowingly uses, transfers, sells, purchases, 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), of Part 6, or by the federal Food Stamp Act of 1977 (Public Law 95-113 and all amendments made thereto) is; (1) guilty of a misdemeanor if the face value of the food stamps or the authorizations to participate is four hundred dollars ($400) or less, and shall be punished 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, or (2) guilty of a felony if the face value of the food stamps or the authorizations to participate exceeds four hundred dollars ($400), and shall be punished by imprisonment in the state prison for a period of 16 months, two years, or three years, a fine of not more than five thousand dollars ($5,000), or by both such imprisonment and fine or by imprisonment in the county jail for a period of not more

than one year, or a fine of not more than one thousand dollars ($1,000), or by both such imprisonment and fine.

SEC. 2. No reimbursement is required by this act pursuant to 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 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 ensure that specified illegal acts concerning the use of food stamps are subject to criminal penalties, as soon as possible, it is necessary that this act go into immediate effect.

CHAPTER 569

An act to amend Section 45308 of the Education Code, relating to classified employees.

[Approved by Governor September 13, 1985. Filed with Secretary of State September 13, 1985]

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

SECTION 1. Section 45308 of the Education Code is amended to read:

45308. Classified employees shall be subject to layoff for lack of work or lack of funds. Whenever a classified employee is laid off, the order of layoff within the class shall be determined by length of service. The employee who has been employed the shortest time in the class, plus higher classes, shall be laid off first. Reemployment shall be in the reverse order of layoff.

For purposes of this section, in school districts with an average daily attendance below 400,000, for service commencing or continuing after July 1, 1971, "length of service" means all hours in paid status, whether during the school year, a holiday, recess, or during any period that a school is in session or closed, but does not include any hours compensated solely on an overtime basis as provided for in Section 45128. For purposes of this section, in school districts with an average daily attendance of 400,000 or more, for service commencing or continuing after January 1, 1986, "length of service" shall be determined by the date of hire.

Nothing contained in this section shall preclude the granting of "length of service" credit for time spent on military leave of absence, or unpaid illness leave, or unpaid industrial accident leave. In the event an employee returns to work following any other unpaid leave

of absence, no further seniority shall be accrued for the time not worked.

"Hours in paid status" shall not be interpreted to mean any service performed prior to entering into a probationary or permanent status in the classified service of the district except service in restricted positions as provided in this chapter.

CHAPTER 570

An act to amend Section 1798.165 of the Health and Safety Code, relating to trauma systems.

[Approved by Governor September 13, 1985 Filed with Secretary of State September 13, 1985]

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

SECTION 1. Section 1798.165 of the Health and Safety Code is amended to read:

1798.165. (a) Local emergency medical services agencies may designate trauma facilities as part of their trauma care system pursuant to the regulations promulgated by the authority.

(b) The health facility shall only be designated to provide the level of trauma care and service for which it is qualified and which is included within the system implemented by the agency.

(c) No health care provider shall use the terms "trauma facility," "trauma hospital," "trauma center," "trauma care provider," "trauma vehicle," or similar terminology in its signs or advertisements, or in printed materials and information it furnishes to the general public, unless the use is authorized by the local EMS agency.

SEC. 2. No reimbursement is required by this act pursuant to 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 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 571

An act to amend Section 502 of the Penal Code, relating to computers.

[Approved by Governor September 13, 1985. Filed with Secretary of State September 13, 1985.]

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

SECTION 1. 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 device or collection of devices, 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, is guilty of a public offense.

(c) Any person who maliciously accesses, alters, deletes, damages, destroys or disrupts the operation of any computer system, computer network, computer program, or data is guilty of a public offense.

(d) Any person who intentionally and without authorization accesses any computer system, computer network, computer program, or data, with knowledge that the access was not authorized, shall be guilty of a public offense. This subdivision shall not apply to

any person who accesses his or her employer's computer system, computer network, computer program, or data when acting within the scope of his or her employment.

(e) Any person who violates any provision of subdivision (b) or (c) unless specified otherwise, 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) (1) A first violation of subdivision (d) which does not result in injury is an infraction punishable by a fine not exceeding two hundred fifty dollars ($250).

(2) A violation of subdivision (d) which results in an injury, or a second or subsequent violation of subdivision (d) with no injury, is a misdemeanor punishable 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.

(3) As used in this subdivision, "injury" means any alteration, deletion, damage, or destruction of a computer system, computer network, computer program, or data caused by the access, or any expenditure reasonably and necessarily incurred by the owner or lessee to verify that a computer system, computer network, computer program, or data was not altered, deleted, damaged, or destroyed by the access.

(g) In addition to any other civil remedy available, the owner or lessee of the computer system, computer network, computer program, or data may bring a civil action against any person convicted under this section for compensatory damages, including any expenditure reasonably and necessarily incurred by the owner or lessee to verify that a computer system, computer network, computer program, or data was not altered, damaged, or deleted by the access. For the purposes of actions authorized by this subdivision, the conduct of an unemancipated minor shall be imputed to the parent or legal guardian having control or custody of the minor, pursuant to the provisions of Section 1714.1 of the Civil Code.

In any action brought pursuant to this subdivision, the court may award attorney's fees to a prevailing plaintiff.

(h) 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.

CHAPTER 572

An act to add Section 2763.5 to the Water Code, relating to water rights.

[Approved by Governor September 13, 1985 Filed with Secretary of State September 13, 1985]

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

SECTION 1. Section 2763.5 is added to the Water Code, to read:

2763.5. (a) No exception to the order of determination shall be considered, except in the court's discretion for good cause shown, unless the matter of the exception was presented to the board in the form of an objection. Good cause includes, but is not limited to, the existence of newly discovered relevant evidence which, in the exercise of reasonable diligence, could not have been presented to the board during the board's proceedings.

(b) This section does not apply to persons to whom the board did not mail either (1) written notice of the board meeting at which the petition pursuant to Section 2525 is to be considered as an item of business, or (2) written notice of the pendency of the proceedings pursuant to Section 2526.

CHAPTER 573

An act to amend Sections 3774, 3800, and 3802 of, and to add Sections 3802.5 and 3804.1 to, the Public Utilities Code, relating to highway carriers.

[Approved by Governor September 13, 1985 Filed with Secretary of State September 13, 1985.]

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

SECTION 1. Section 3774 of the Public Utilities Code is amended to read:

3774. The commission may cancel, revoke, or suspend the operating permit or permits of any highway carrier upon any of the following grounds:

(a) Any illegally conducted highway carrier operations.

(b) The violation of any of the provisions of this chapter, or of any operating permit issued thereunder.

(c) The violation of any order, decision, rule, regulation, direction, demand, or requirement established by the commission pursuant to this chapter.

(d) The conviction of the highway carrier of any misdemeanor under this chapter.

(e) The rendition of a judgment against the highway carrier for any penalty imposed under this chapter.

(f) The failure of a highway carrier to pay any fee imposed upon the carrier within the time required by law.

As an alternative to the cancellation, revocation, or suspension of an operating permit or permits, the commission may impose upon the holder of the permit or permits a fine of not exceeding twenty thousand dollars ($20,000). The commission may assess interest upon any fine imposed, the interest to commence upon the day the payment of the fine is delinquent. All fines and interest collected shall be deposited at least once each month in the State Treasury to the credit of the General Fund.

SEC. 2. Section 3800 of the Public Utilities Code is amended to read:

3800. Whenever the commission, after a hearing, finds that any highway permit carrier has charged, collected, or received for the transportation of property, or for any service in connection therewith, rates or charges less than the minimum rates and charges applicable to the transportation established or approved by the commission, has directly or indirectly refunded or remitted in any manner, or by any device, any portion of these minimum rates or charges, or has paid a commission, without an order of the commission so authorizing, the commission shall require the carrier to collect the undercharges involved and may impose upon the carrier a fine equal to the amount of the undercharges. All of these fines shall be paid into the State Treasury to the credit of the General Fund. The remedy and penalty provided by this section are cumulative and shall not be a bar to or affect any other remedy or penalty provided for in this chapter, or to the exercise by the commission of its power to punish for contempt.

SEC. 3. 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 the 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. 4. Section 3802.5 is added to the Public Utilities Code, to read:

3802.5. When the commission determines that any corporation or person has engaged in, is engaged in, or is about to engage in any acts

or practices which is a violation of this chapter or any order, decision, rule, regulation, direction, demand, or requirement issued thereunder, the commission may make application to the superior court for an order enjoining these acts or practices or for an order directing compliance. The court may grant a permanent or temporary injunction, restraining order, or other order upon a showing by the commission that a person or corporation has engaged in or is about to engage in these acts or practices.

SEC. 5. Section 3804.1 is added to the Public Utilities Code, to read:

3804.1. Whenever the commission finds, after a hearing, that any person or corporation, other than a highway carrier, has knowingly and willfully violated this chapter or any order, decision, rule, regulation, direction, demand, or requirement issued thereunder, the commission may impose a fine for each violation of not to exceed five thousand dollars ($5,000). In addition to the fine, the commission may impose interest on the fine, the determination of which shall commence on the day when the payment of the fine becomes delinquent.

CHAPTER 574

An act to amend Section 1276.2 of the Health and Safety Code, relating to health.

[Approved by Governor September 13, 1985. Filed with Secretary of State September 13, 1985.]

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

SECTION 1. Section 1276.2 of the Health and Safety Code is amended to read:

1276.2. Standards and regulations adopted by the State Department of Health Services pursuant to Section 1276 shall not require the use of a registered nurse for the performance of any service or staffing of any position in freestanding skilled nursing or intermediate care facilities which may lawfully be performed or staffed by a licensed vocational nurse pursuant to the Vocational Nursing Practice Act (Chapter 6.5 (commencing with Section 2840) of Division 2 of the Business and Professions Code) and applicable federal regulations, when a facility is unable to obtain a registered nurse, except that a licensed vocational nurse employed in accordance with this section shall be a permanent employee of the facility. Nothing in this section shall permit a licensed vocational nurse to act as director of nurses or expand the scope of practice of licensed vocational nurses pursuant to the Vocational Nursing Practice Act. The above provisions apply to staffing for the night and p.m. shifts only, except that if the level of care is determined by the

department to be inadequate, the department may require the facility to provide additional staffing.

This section shall remain in effect only until January 1, 1989, and as of that date is repealed, unless a later enacted statute, which is chaptered on or before January 1, 1989, deletes or extends that date.

CHAPTER 575

An act to add Section 89010 to the Education Code, relating to the California State University, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 13, 1985. Filed with Secretary of State September 13, 1985]

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

SECTION 1. Section 89010 is added to the Education Code, to read:

89010. (a) It is the intent of the Legislature that public programs of postsecondary education be made available to qualified persons throughout this state, including areas of substantial existing or projected population that are isolated from any campus of the California State University.

(b) The Trustees of the California State University shall consider the feasibility of establishing in the northern portion of San Diego County a permanent off-campus center, the purpose of which shall be to offer postsecondary education programs.

(c) The trustees shall contract for the performance of a detailed survey of the northern portion of San Diego County that shall include, but not be limited to, official population projections, an industry and income profile, an analysis of specific educational program requirements of potentially qualified students, an assessment of the need for educational services at the postsecondary education level, and an assessment of the services currently provided by other public and private institutions of postsecondary education, including the University of California and the California Community Colleges, and an analysis of possible sites.

(d) The trustees shall take action on the results of the study and survey, and shall forward the results to the California Postsecondary Education Commission for its review pursuant to Section 66904.

(e) The trustees shall develop explicit criteria for the development of any proposals for the state-funded purchase or construction of off-campus centers within the California State University, and shall submit the criteria to the California Postsecondary Education Commission for its review. No later than July 1, 1986, the trustees shall submit the criteria to the Legislature, and the commission shall submit to the Legislature its

recommendations concerning the criteria.

SEC. 2. The sum of two hundred fifty thousand dollars ($250,000) is hereby appropriated from the General Fund to the California State University for allocation as follows, pursuant to the establishment of a permanent off-campus center as provided by Section 89010 of the Education Code:

(a) Two hundred thousand dollars ($200,000) for the performance of a site selection study.

(b) Fifty thousand dollars ($50,000) for a detailed survey of the northern portion of San Diego County.

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

In order to ensure the availability of adequate postsecondary level educational opportunities in the northern portion of San Diego County, at the earliest possible opportunity, it is necessary that this act take effect immediately.

CHAPTER 576

An act to amend Sections 97 and 98 of, and to add Sections 97.31 and 97.32 to, the Revenue and Taxation Code, relating to public finance, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 13, 1985 Filed with Secretary of State September 13, 1985.]

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

SECTION 1. Section 97 of the Revenue and Taxation Code is amended to read:

97. Except as otherwise provided in Sections 97.3 and 97.32, 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, 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. 1.3. Section 97 of the Revenue and Taxation Code is amended to read:

97. Except as otherwise provided in Sections 97.3 and 97.32, 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 or 99.4.

(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, 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. 1.5. Section 97 of the Revenue and Taxation Code is amended to read:

97. Except as otherwise provided in Sections 97.3, 97.32, 97.35, and 98.1, 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 or 99.4.

(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, 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. 1.7. Section 97 of the Revenue and Taxation Code is amended to read:

97. Except as otherwise provided in Sections 97.3, 97.32, 97.35, and 98.1, 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 or 99.4.

(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, 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. 2. Section 97.31 is added to the Revenue and Taxation Code, to read:

97.31. (a) The Controller shall compute an amount to be used to

revise the property tax revenue allocations of special districts for the 1985–86 fiscal year, as follows:

(1) An amount shall be determined which is equal to the amount computed pursuant to paragraph (1) of subdivision (b) of Section 97.32.

(2) An amount shall be computed for each special district in each county which shall be the difference between the amount computed pursuant to Chapter 3 (commencing with Section 16270) of Part 1.5 of Division 4 of Title 2 of the Government Code and the amount which would have been computed for each special district pursuant to Chapter 3 (commencing with Section 16270) of Part 1.5 of Division 4 of Title 2 of the Government Code if the total amount to be allocated had been reduced by the amount determined in paragraph (1).

(b) The Controller shall notify each auditor of the amounts computed for each special district within his or her county pursuant to paragraph (2) of subdivision (a).

SEC. 3. Section 97.32 is added to the Revenue and Taxation Code, to read:

97.32. (a) For the 1985–86 fiscal year only, the computations made pursuant to Section 97, shall be modified as follows:

(1) Each auditor shall subtract the amount reported by the Controller pursuant to subdivision (b) of Section 97.31 for each special district from that special district's property tax revenue allocated pursuant to this chapter in the 1984–85 fiscal year, after making the adjustments required by Section 99.

(2) Each auditor shall compute the sum of the amounts reported to him or her pursuant to subdivision (b) of Section 97.31 and shall add that sum to all school entities in the county in proportion to each school entity's share of the total property tax revenue allocated to all school entities in the county pursuant to this chapter in the 1984–85 fiscal year.

(b) In addition to the computations required by subdivision (a), in the County of San Bernardino, the computations made pursuant to Section 97, for the 1985–86 fiscal year only, shall be modified as follows:

(1) For each qualifying district, the auditor shall compute the amount of SAPE for the district pursuant to the SAPE formula, as defined in subdivision (f), and shall increase the amount of the qualifying district's SAPE, subject to the provisions of Section 95, by a percentage equal to the increase in assessed valuation for the district in the 1984–85 fiscal year.

(2) The auditor shall add the amount computed in paragraph (1) for each qualifying district to the district's property tax revenue allocated pursuant to this chapter in the 1984–85 fiscal year, modified by any adjustments required by Section 99. The amounts computed pursuant to paragraph (1) shall be applied to property tax revenues allocated pursuant to this chapter in the 1984–85 fiscal year for all affected jurisdictions in accordance with the procedure prescribed

by subdivision (b) of Section 96 for the 1979–80 fiscal year allocations, modified by any adjustments required by Section 99.

(c) After making the calculations required by subdivision (a) and (b), but before making the calculations pursuant to Section 98, the auditor shall, for all tax rate areas, calculate the proportionate share of property tax revenue allocated pursuant to this section and Section 97 in the 1985–86 fiscal year to each jurisdiction in the tax rate area.

(d) In lieu of making the allocations of annual tax increment pursuant to subdivision (e) of Section 98, the auditor shall for the 1985–86 fiscal year only, allocate the amount of property tax revenue determined pursuant to subdivision (d) of Section 98 to jurisdictions in the tax rate area using the proportionate shares derived pursuant to subdivision (c).

(e) For purposes of the calculations made pursuant to Section 97, in the 1986–87 fiscal year and fiscal years thereafter, the amounts allocated to affected jurisdictions pursuant to this section shall be deemed to be the "amount of property tax revenue allocated pursuant to this chapter in the prior fiscal year."

(f) For purposes of this section:

(1) "Qualifying district" means any special district in the County of San Bernardino whose fiscal officer failed to report to the Controller pursuant to Section 16272.3 of the Government Code.

(2) "SAPE" means State Assistance Payment Equity, and, for purposes of this section, shall hereinafter be deemed to be an amount received pursuant to Chapter 3 (commencing with Section 16270) of Part 1.5 of Division 4 of Title 2 of the Government Code, and subject to the provisions of Section 95.

(3) "SAPE formula" means the State Assistance Payment Equity formula, determined as follows:

(A) The amount distributed to the governing body of a qualifying district pursuant to Section 16272.7 of the Government Code shall be divided by the aggregate sum of the amounts reported pursuant to Section 16272.3 of the Government Code by the fiscal officer of the special districts governed by the same governing body as the qualifying district.

(B) The sum of the amounts which would have been reported for the qualifying district pursuant to Section 16272.3 of the Government Code shall be multiplied by the amount calculated pursuant to subparagraph (A).

(g) The County of San Bernardino shall provide direct reimbursement to each county for the costs mandated by the state in this section. The reimbursement shall be made during the 1985–86 fiscal year to each county at the rate of ten dollars ($10) for each school entity located within the county in the 1984–85 fiscal year.

SEC. 4. Section 98 of the Revenue and Taxation Code is amended to read:

98. The difference between the total amount of property tax revenue computed each year using the equalized assessment roll and the sum of the amounts allocated pursuant to subdivisions (a) and

(b) of Section 96 or subdivision (a) of Section 97 shall be known and may be cited as the annual tax increment, and shall be allocated, subject to allocation and payment of funds as provided for in subdivision (b) of Section 33670 of the Health and Safety Code, and modified by any adjustments made pursuant to Section 99, as follows:

(a) For each tax rate area, the auditor shall determine an amount of property tax revenue by multiplying the value of the change in taxable assessed value from the equalized assessment roll for the prior fiscal year to the equalized assessment roll for the current fiscal year by a tax rate of four dollars ($4) per one hundred dollars ($100) of assessed value. When computing the change in taxable assessed value between the 1980–81 fiscal year and the 1981–82 fiscal year, the assessed values for the 1980–81 fiscal year shall be multiplied by four. Starting with the 1981–82 fiscal year, the tax rate used in this calculation shall be one dollar per one hundred dollars ($100) of full value.

(b) Each amount determined pursuant to subdivision (a) shall be divided by the total of all such amounts computed for all tax rate areas within the county.

(c) The difference between the total amount of property tax revenue for the county and the sum of the amounts allocated pursuant to subdivisions (a) and (b) of Section 96 or subdivision (a) of Section 97 shall be computed.

(d) The amount determined pursuant to subdivision (c) shall be multiplied by the quotients determined pursuant to subdivision (b) to derive, for each tax rate area, the amount of property tax revenue attributable to changes in assessed valuation.

(e) Except as provided in paragraph (4) of subdivision (b) of Section 97.3 with respect to the County of Orange in the 1984–85 fiscal year only, and in subdivision (d) of Section 97.32, in the 1985–86 fiscal year only, the amount of property tax revenue determined pursuant to subdivision (d) shall be allocated to the jurisdictions in the tax rate area in the same proportion that the total property tax revenue determined pursuant to subdivision (d) for the prior year was allocated to all such jurisdictions in the tax rate area except that those proportions within each tax rate area may be adjusted for affected agencies pursuant to the provisions of Section 99.

(f) For the 1979–80 fiscal year only:

(1) The amount of property tax revenue, attributable to the tax rate area, for each jurisdiction for the prior fiscal year shall be considered to be the total property tax revenue for such jurisdiction for fiscal year 1978–79 allocated among tax rate areas in the same proportion which the taxable assessed valuation for fiscal year 1978–79 in each tax rate area bears to the total taxable assessed valuation of all tax rate areas in which the jurisdiction was located in fiscal year 1978–79.

(2) Property tax revenue received by local agencies in the prior fiscal year shall include the amount of state assistance payments allocated to each local agency, allocated among tax rate areas in

proportion to the jurisdiction's taxable assessed valuation within each tax rate area for the 1978–79 fiscal year.

(3) Property tax revenue received by school entities in the prior fiscal year shall be reduced by the adjustments required by subdivision (b) of Section 96, allocated among tax rate areas, in proportion to the school entity's taxable assessed valuation within each tax rate area for the 1978–79 fiscal year.

(g) Any agency which has not filed a map of its boundaries by January 1, in compliance with Chapter 8 (commencing with Section 54900) of Part 1 of Division 2 of Title 5 of the Government Code, shall not receive any allocation pursuant to this section for the following fiscal year.

(h) For the purpose of this section, for the 1980–81 fiscal year, the 1979–80 taxable assessed valuation shall be adjusted to delete the amounts reflecting prior years' taxable business inventories.

SEC. 4.3. Section 98 of the Revenue and Taxation Code is amended to read:

98. The difference between the total amount of property tax revenue computed each year using the equalized assessment roll and the sum of the amounts allocated pursuant to subdivisions (a) and (b) of Section 96 or subdivision (a) of Section 97 shall be known and may be cited as the annual tax increment, and shall be allocated, subject to allocation and payment of funds as provided for in subdivision (b) of Section 33670 of the Health and Safety Code, and modified by any adjustments made pursuant to Section 99 or 99.4, as follows:

(a) For each tax rate area, the auditor shall determine an amount of property tax revenue by multiplying the value of the change in taxable assessed value from the equalized assessment roll for the prior fiscal year to the equalized assessment roll for the current fiscal year by a tax rate of four dollars ($4) per one hundred dollars ($100) of assessed value. When computing the change in taxable assessed value between the 1980–81 fiscal year and the 1981–82 fiscal year, the assessed values for the 1980–81 fiscal year shall be multiplied by four. Starting with the 1981–82 fiscal year, the tax rate used in this calculation shall be one dollar ($1) per one hundred dollars ($100) of full value.

(b) Each amount determined pursuant to subdivision (a) shall be divided by the total of all such amounts computed for all tax rate areas within the county.

(c) The difference between the total amount of property tax revenue for the county and the sum of the amounts allocated pursuant to subdivisions (a) and (b) of Section 96 or subdivision (a) of Section 97 shall be computed.

(d) The amount determined pursuant to subdivision (c) shall be multiplied by the quotients determined pursuant to subdivision (b) to derive, for each tax rate area, the amount of property tax revenue attributable to changes in assessed valuation.

(e) Except as provided in paragraph (4) of subdivision (b) of

Section 97.3 with respect to the County of Orange in the 1984–85 fiscal year only, and in subdivision (d) of Section 97.32 in the 1985–86 fiscal year only, the amount of property tax revenue determined pursuant to subdivision (d) shall be allocated to the jurisdictions in the tax rate area in the same proportion that the total property tax revenue determined pursuant to subdivision (d) for the prior year was allocated to all such jurisdictions in the tax rate area except that those proportions within each tax rate area may be adjusted for affected agencies pursuant to the provisions of Section 99 or 99.4.

(f) For the 1979–80 fiscal year only:

(1) The amount of property tax revenue, attributable to the tax rate area, for each jurisdiction for the prior fiscal year shall be considered to be the total property tax revenue for such jurisdiction for fiscal year 1978–79 allocated among tax rate areas in the same proportion which the taxable assessed valuation for fiscal year 1978–79 in each tax rate area bears to the total taxable assessed valuation of all tax rate areas in which the jurisdiction was located in fiscal year 1978–79.

(2) Property tax revenue received by local agencies in the prior fiscal year shall include the amount of state assistance payments allocated to each local agency, allocated among tax rate areas in proportion to the jurisdiction's taxable assessed valuation within each tax rate area for the 1978–79 fiscal year.

(3) Property tax revenue received by school entities in the prior fiscal year shall be reduced by the adjustments required by subdivision (b) of Section 96, allocated among tax rate areas, in proportion to the school entity's taxable assessed valuation within each tax rate area for the 1978–79 fiscal year.

(g) Any agency which has not filed a map of its boundaries by January 1, in compliance with Chapter 8 (commencing with Section 54900) of Part 1 of Division 2 of Title 5 of the Government Code, shall not receive any allocation pursuant to this section for the following fiscal year.

(h) For the purpose of this section, for the 1980–81 fiscal year, the 1979–80 taxable assessed valuation shall be adjusted to delete the amounts reflecting prior years' taxable business inventories.

SEC. 4.5. Section 98 of the Revenue and Taxation Code is amended to read:

98. The difference between the total amount of property tax revenue computed each year using the equalized assessment roll and the sum of the amounts allocated pursuant to subdivisions (a) and (b) of Section 96 or subdivision (a) of Section 97 shall be known and may be cited as the annual tax increment, and shall be allocated, subject to allocation and payment of funds as provided for in subdivision (b) of Section 33670 of the Health and Safety Code, and modified by any adjustments made pursuant to Section 99, as follows:

(a) For each tax rate area, the auditor shall determine an amount of property tax revenue by multiplying the value of the change in taxable assessed value from the equalized assessment roll for the

prior fiscal year to the equalized assessment roll for the current fiscal year by a tax rate of four dollars ($4) per one hundred dollars ($100) of assessed value. When computing the change in taxable assessed value between the 1980–81 fiscal year and the 1981–82 fiscal year, the assessed values for the 1980–81 fiscal year shall be multiplied by four. Starting with the 1981–82 fiscal year, the tax rate used in this calculation shall be one dollar ($1) per one hundred dollars ($100) of full value.

(b) Each amount determined pursuant to subdivision (a) shall be divided by the total of all such amounts computed for all tax rate areas within the county.

(c) The difference between the total amount of property tax revenue for the county and the sum of the amounts allocated pursuant to subdivisions (a) and (b) of Section 96 or subdivision (a) of Section 97 shall be computed.

(d) The amount determined pursuant to subdivision (c) shall be multiplied by the quotients determined pursuant to subdivision (b) to derive, for each tax rate area, the amount of property tax revenue attributable to changes in assessed valuation.

(e) Except as provided in Section 98.1, as provided in paragraph (4) of subdivision (b) of Section 97.3 in the 1984–85 fiscal year only, as provided in subdivision (d) of Section 97.32 in the 1985–86 fiscal year only, and as provided in paragraph (4) of subdivision (b) of Section 97.35 in the 1986–87 fiscal year only, the amount of property tax revenue determined pursuant to subdivision (d) shall be allocated to the jurisdictions in the tax rate area in the same proportion that the total property tax revenue determined pursuant to subdivision (d) for the prior year was allocated to all such jurisdictions in the tax rate area except that those proportions within each tax rate area may be adjusted for affected agencies pursuant to the provisions of Section 99.

(f) For the 1979–80 fiscal year only:

(1) The amount of property tax revenue, attributable to the tax rate area, for each jurisdiction for the prior fiscal year shall be considered to be the total property tax revenue for such jurisdiction for fiscal year 1978–79 allocated among tax rate areas in the same proportion which the taxable assessed valuation for fiscal year 1978–79 in each tax rate area bears to the total taxable assessed valuation of all tax rate areas in which the jurisdiction was located in fiscal year 1978–79.

(2) Property tax revenue received by local agencies in the prior fiscal year shall include the amount of state assistance payments allocated to each local agency, allocated among tax rate areas in proportion to the jurisdiction's taxable assessed valuation within each tax rate area for the 1978–79 fiscal year.

(3) Property tax revenue received by school entities in the prior fiscal year shall be reduced by the adjustments required by subdivision (b) of Section 96, allocated among tax rate areas, in proportion to the school entity's taxable assessed valuation within

each tax rate area for the 1978–79 fiscal year.

(g) Any agency which has not filed a map of its boundaries by January 1, in compliance with Chapter 8 (commencing with Section 54900) of Part 1 of Division 2 of Title 5 of the Government Code, shall not receive any allocation pursuant to this section for the following fiscal year.

(h) For the purpose of this section, for the 1980–81 fiscal year, the 1979–80 taxable assessed valuation shall be adjusted to delete the amounts reflecting prior years' taxable business inventories.

SEC. 4.7. Section 98 of the Revenue and Taxation Code is amended to read:

98. The difference between the total amount of property tax revenue computed each year using the equalized assessment roll and the sum of the amounts allocated pursuant to subdivisions (a) and (b) of Section 96 or subdivision (a) of Section 97 shall be known and may be cited as the annual tax increment, and shall be allocated, subject to allocation and payment of funds as provided for in subdivision (b) of Section 33670 of the Health and Safety Code, and modified by any adjustments made pursuant to Section 99 or 99.4, as follows:

(a) For each tax rate area, the auditor shall determine an amount of property tax revenue by multiplying the value of the change in taxable assessed value from the equalized assessment roll for the prior fiscal year to the equalized assessment roll for the current fiscal year by a tax rate of four dollars ($4) per one hundred dollars ($100) of assessed value. When computing the change in taxable assessed value between the 1980–81 fiscal year and the 1981–82 fiscal year, the assessed values for the 1980–81 fiscal year shall be multiplied by four. Starting with the 1981–82 fiscal year, the tax rate used in this calculation shall be one dollar ($1) per one hundred dollars ($100) of full value.

(b) Each amount determined pursuant to subdivision (a) shall be divided by the total of all such amounts computed for all tax rate areas within the county.

(c) The difference between the total amount of property tax revenue for the county and the sum of the amounts allocated pursuant to subdivisions (a) and (b) of Section 96 or subdivision (a) of Section 97 shall be computed.

(d) The amount determined pursuant to subdivision (c) shall be multiplied by the quotients determined pursuant to subdivision (b) to derive, for each tax rate area, the amount of property tax revenue attributable to changes in assessed valuation.

(e) Except as provided in Section 98.1, as provided in paragraph (4) of subdivision (b) of Section 97.3 in the 1984–85 fiscal year only, as provided in subdivision (d) of Section 97.32 in the 1985–86 fiscal year only, and as provided in paragraph (4) of subdivision (b) of Section 97.35 in the 1986–87 fiscal year only, the amount of property tax revenue determined pursuant to subdivision (d) shall be allocated to the jurisdictions in the tax rate area in the same

proportion that the total property tax revenue determined pursuant to subdivision (d) for the prior year was allocated to all such jurisdictions in the tax rate area except that those proportions within each tax rate area may be adjusted for affected agencies pursuant to the provisions of Section 99 or 99.4.

(f) For the 1979–80 fiscal year only:

(1) The amount of property tax revenue, attributable to the tax rate area, for each jurisdiction for the prior fiscal year shall be considered to be the total property tax revenue for such jurisdiction for fiscal year 1978–79 allocated among tax rate areas in the same proportion which the taxable assessed valuation for fiscal year 1978–79 in each tax rate area bears to the total taxable assessed valuation of all tax rate areas in which the jurisdiction was located in fiscal year 1978–79.

(2) Property tax revenue received by local agencies in the prior fiscal year shall include the amount of state assistance payments allocated to each local agency, allocated among tax rate areas in proportion to the jurisdiction's taxable assessed valuation within each tax rate area for the 1978–79 fiscal year.

(3) Property tax revenue received by school entities in the prior fiscal year shall be reduced by the adjustments required by subdivision (b) of Section 96, allocated among tax rate areas, in proportion to the school entity's taxable assessed valuation within each tax rate area for the 1978–79 fiscal year.

(g) Any agency which has not filed a map of its boundaries by January 1, in compliance with Chapter 8 (commencing with Section 54900) of Part 1 of Division 2 of Title 5 of the Government Code, shall not receive any allocation pursuant to this section for the following fiscal year.

(h) For the purpose of this section, for the 1980–81 fiscal year, the 1979–80 taxable assessed valuation shall be adjusted to delete the amounts reflecting prior years' taxable business inventories.

SEC. 5. (a) Section 1.3 of this bill incorporates amendments to Section 97 of the Revenue and Taxation Code proposed by both this bill and AB 241. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1986, (2) each bill amends Section 97 of the Revenue and Taxation Code, (3) SB 1091 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 241, in which case Section 97 of the Revenue and Taxation Code, as amended by AB 241, shall remain operative only until the operative date of this bill, at which time Section 1.3 of this bill shall become operative, and Sections 1, 1.5, and 1.7 of this bill shall not become operative.

(b) Section 1.5 of this bill incorporates amendments to Section 97 of the Revenue and Taxation Code proposed by both this bill and SB 1091. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1986, (2) each bill amends Section 97 of the Revenue and Taxation Code, (3) AB 241 is not enacted or as enacted does not amend that section, and (4) this bill

is enacted after SB 1091, in which case Section 97 of the Revenue and Taxation Code, as amended by SB 1091, shall remain operative only until the operative date of this bill, at which time Section 1.5 of this bill shall become operative, and Sections 1, 1.3, and 1.7 of this bill shall not become operative.

(c) Section 1.7 of this bill incorporates amendments to Section 97 of the Revenue and Taxation Code proposed by this bill, AB 241, and SB 1091. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 1986, (2) all three bills amend Section 97 of the Revenue and Taxation Code, and (3) this bill is enacted after AB 241 and SB 1091, in which case Section 97 of the Revenue and Taxation Code, as amended by AB 241 and SB 1091, shall remain operative only until the operative date of this bill, at which time Section 1.7 of this bill shall become operative, and Sections 1, 1.3, and 1.5 of this bill shall not become operative.

SEC. 6. (a) Section 4.3 of this bill incorporates amendments to Section 98 of the Revenue and Taxation Code proposed by both this bill and AB 241. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1986, (2) each bill amends Section 98 of the Revenue and Taxation Code, (3) SB 1091 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 241, in which case Section 98 of the Revenue and Taxation Code, as amended by AB 241, shall remain operative only until the operative date of this bill, at which time Section 4.3 of this bill shall become operative and Sections 4, 4.5, and 4.7 of this bill shall not become operative.

(b) Section 4.5 of this bill incorporates amendments to Section 98 of the Revenue and Taxation Code proposed by both this bill and SB 1091. It shall only become operative if (1) both bills are enacted and become effective or before January 1, 1986, (2) each bill amends Section 98 of the Revenue and Taxation Code, (3) AB 241 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after SB 1091, in which case Section 98 of the Revenue and Taxation Code, as amended by SB 1091, shall remain operative only until the operative date of this bill, at which time Section 4.5 of this bill shall become operative and Sections 4, 4.3, and 4.7 of this bill shall not become operative.

(c) Section 4.7 of this bill incorporates amendments to Section 98 of the Revenue and Taxation Code proposed by this bill, AB 241, and SB 1091. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 1986, (2) all three bills amend Section 98 of the Revenue and Taxation Code, and (3) this bill is enacted after AB 241 and SB 1091, in which case Section 98 of the Revenue and Taxation Code, as amended by AB 241 and SB 1019, shall remain operative only until the operative date of this bill, at which time Section 4.7 of this bill shall become operative, and Sections 4, 4.3, and 4.5 of this bill shall not become operative.

SEC. 7. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution 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. 8. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act.

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 California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that the changes required by this act may apply to the calculations made by the Controller and local officials for the 1985–86 fiscal year, it is necessary for this act to take effect immediately.

CHAPTER 577

An act to amend Sections 51852, 51852.5 and 51853 of, and to add Section 18938.5 to, the Health and Safety Code, relating to buildings, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 13, 1985 Filed with Secretary of State September 14, 1985]

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

SECTION 1. Section 18938.5 is added to the Health and Safety Code, to read:

18938.5. Only those building standards approved by the commission, and which are effective within a local agency at the time an application for a building permit is submitted, apply to construction performed under that building permit.

SEC. 2. Section 51852 of the Health and Safety Code is amended to read:

51852. Loans insured under this part shall meet all of the following requirements:

(a) The loans shall be made for a period acceptable to the agency not to exceed 40 years or four-fifths of the remaining life of the structure, as determined by the agency in accordance with its regulations, whichever is less.

(b) The loans shall be subject to maximum loan amounts for each category of loan authorized to be insured under this part.

(c) The loans shall be secured by mortgages, or the loan shall be wholly or partially insured or guaranteed by an agency or instrumentality of the United States, except for property improvement loans under limits established by the agency.

(d) The agency may establish loan-to-value limitations for each

category of loan and may set forth limitations on the further encumbrance of structures and other real property securing loans, but only to the extent necessary to prevent unreasonable impairment of the agency's security. In no case involving refinancing, shall the loan have a principal obligation in an amount exceeding the sum of the estimated cost of rehabilitation, if any, and the amount required to refinance existing indebtedness secured by the property and settlement and closing costs incurred in connection therewith.

(e) Loans for the rehabilitation of residential structures shall have a principal obligation not exceeding an amount which, when added to any outstanding indebtedness constituting a lien upon the property securing the loan, creates a total outstanding indebtedness which would be reasonably secured by a mortgage of first priority on the property pursuant to subdivision (d), and as set forth in regulations of the agency.

(f) Loans for refinancing may be insured only if refinancing is necessary to permit a borrower to afford the cost of rehabilitation or to minimize rent increases for occupants of the residential structure, where the rents would otherwise exceed affordable rents due to the expense of rehabilitation, or to achieve another purpose specified in this division.

(g) With respect to any loan for the rehabilitation of a residential structure, the agency shall determine that the rehabilitation is economically feasible. For purposes of this subdivision, the economic feasibility of commercial space in a mixed residential and commercial structure shall be determined independently for any structure to be rehabilitated for mixed residential and commercial uses.

(h) No borrower shall be eligible for insurance of a loan or loans for acquisition or rehabilitation of more than one residential structure, unless the borrower is a qualified developer.

(i) For the purpose of increasing the efficiency and minimizing the cost of the loan insurance program, the agency may insure or issue commitments to insure loans, upon the certification of an officer of an approved lending institution that the proposed rehabilitation conforms to requirements specified by regulations of the agency regarding economic feasibility and commercial demand.

(j) With respect to any loan for rehabilitation or rehabilitation in combination with refinancing or purchase, the loan agreement shall provide that all funds loaned for repairs and improvements shall be paid after completion or according to a progress payment schedule to the owner and contractor or other provider of goods or services jointly at the times as payment becomes due, and provided the work or portion of the work for which payment is tendered is certified, as provided by regulation of the agency, to be in compliance with contract specifications and applicable state or local housing or building standards.

(k) The agency shall contract with the insured or the borrower,

or both, during the term of the insurance if the agency determines that either or both of those contracts is necessary to maintain residential rentals available to lower income households at affordable rents.

(*l*) Relocation payments shall be made to persons and families displaced in making a site or residential structure available for rehabilitation or construction financed by loans insured under this part, and relocation advisory assistance provided to those persons, as specified by Section 51063. Relocation payments shall also be made to owners involuntarily displaced because of inability to afford costs of compliance required pursuant to this part, but any payment pursuant to Section 4623 of Title 42 of the United States Code or Section 7263 of the Government Code shall be limited to the reasonable costs of a replacement dwelling adequate to accommodate the displaced person or family without regard to whether the dwelling is otherwise comparable to the dwelling formerly occupied, less the amount received from sale of the dwelling. Relocation payments may be made from the proceeds of insured loans as authorized by the agency.

(m) The residential structure for which a loan is insured pursuant to this part shall be insured against loss due to fire and other causes, as provided by the regulations of the agency.

(n) Any other terms and conditions as the agency, by regulation, determines are necessary to further the purposes of this part.

SEC. 3. Section 51852.5 of the Health and Safety Code is amended to read:

51852.5. Notwithstanding any other provision of law:

(a) Any rental housing development which is financed from mortgages insured pursuant to this chapter is exempt from all of the following:

(1) Any local government prohibitions against condominium conversion any time after 10 years from the date a certificate of occupancy is issued. Any such condominium conversion shall be made in accordance with the requirements of Article 2.5 (commencing with Section 66452.50) of Chapter 3 of Division 2 of Title 7 of the Government Code.

(2) Any rent control except for units made available to lower income households as provided pursuant to subdivision (b) of Section 51226 and subdivision (k) of Section 51852.

(b) Any rental housing development which is financed from mortgages insured or coinsured pursuant to this chapter is exempt from any architectural or design review by the agency.

SEC. 4. Section 51853 of the Health and Safety Code is amended to read:

51853. The agency may provide insurance pursuant to this part for loans for housing developments and residential structures which will be occupied primarily by persons and families of low or moderate income and for loans for privately financed rental housing developments which will benefit lower income households.

"Privately financed rental housing development," as used in this section, includes rental housing developments financed by local public entities, as defined by Section 50079.

SEC. 5. No reimbursement shall be made from the State Mandates Claims Fund pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code for costs mandated by the state pursuant to this act. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Part 7 (commencing with Section 17500) and any other provisions of law.

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

In order that certain adjustments in insurance coverage and that certainty concerning the application of building standards can be provided as soon as possible, it is necessary for this act to take effect immediately.

CHAPTER 578

An act to add Section 89722.5 to the Education Code, relating to the California State University, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 13, 1985. Filed with Secretary of State September 16, 1985.]

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

SECTION 1. Section 89722.5 is added to the Education Code, to read:

89722.5. (a) There is hereby created in the State Treasury the California State University Lottery Education Fund. Moneys received by the Trustees of the California State University from the California State Lottery Education Fund pursuant to Section 8880.5 of the Government Code may be deposited and maintained in the fund. Notwithstanding Section 13340 of the Government Code, all moneys in the fund shall be continuously appropriated without regard to fiscal year for expenditure by the trustees for educational purposes pursuant to Section 8880.5 of the Government Code. All expenditures from the fund shall be subject to an annual postaudit by the Audits Division of the State Department of Finance.

(b) Pending expenditure for educational purposes, the moneys in the fund may be invested by the Treasurer, subject to the approval of the trustees, in those eligible securities listed in Section 16430 of the Government Code. All interest accruing from any investment pursuant to this subdivision shall be deposited into, and credited to,

the 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 create the California State University Lottery Education Fund prior to the first distribution of funds pursuant to Section 8880.5 of the Government Code, it is necessary that this act take effect immediately.

CHAPTER 579

An act to amend Sections 16731, 53531, 53532, and 53541 of the Government Code, relating to bonds.

[Approved by Governor September 13, 1985. Filed with Secretary of State September 16, 1985.]

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

SECTION 1. 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 the bonds then to be sold:

(a) The aggregate number, aggregate par value, denominations and the date of the bonds to be then sold. The denominations shall be in the sum of one thousand dollars ($1,000), or multiples of that sum. The date appearing on the bonds shall be deemed to be the date of issuance for all purposes of this chapter, irrespective of the actual date of delivery of the bonds and the payment of the purchase price of the bonds.

(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 the 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, 1988, 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 to the bonds.

(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 the right is reserved the denominations and form of the 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 the registration is to be as to principal only, or as to both principal and interest, or in either of the forms at the option of the holder, and the form and all of the terms and conditions of the registration. If the 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 the registration with respect to the payment of registered bonds and the interest on registered bonds.

(i) All other terms and conditions of the bonds and of the execution, issuance, and sale of the bonds, which shall be consistent with all of the provisions of this chapter.

(j) Notwithstanding 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. 2. Section 53531 of the Government Code, as amended by Section 1.5 of Chapter 293 of the Statutes of 1983, is amended to read:

53531. Any provision of law specifying the maximum interest rate on bonds to the contrary notwithstanding, bonds may bear interest at a coupon rate or rates as determined by the legislative body in its discretion but not to exceed 12 percent per year payable as permitted by law, unless some higher rate is permitted by law.

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. 3. Section 53531 of the Government Code, as amended by Section 2 of Chapter 293 of the Statutes of 1983, is amended to read:

53531. Any provision of law specifying the maximum interest rate on bonds to the contrary notwithstanding, bonds may bear interest at a coupon rate or rates as determined by the legislative body in its discretion but not to exceed 10 percent per year payable as permitted by law, unless some higher rate is permitted by law.

This section shall become operative January 1, 1988.

SEC. 4. Section 53532 of the Government Code, as amended by Section 3 of Chapter 293 of the Statutes of 1983, is amended to read:

53532. The provisions of Section 53531 shall apply only to coupon rates and shall not affect the power of a local agency to sell bonds at a discount below par if permitted by law. Any provision of law permitting bonds to be sold at a discount but specifying a maximum interest yield on bonds sold at a discount to the contrary notwithstanding, the bonds may be sold at a price yielding to the purchaser an effective interest rate of not to exceed 12 percent per year, payable as permitted by law, according to standard tables of bond values.

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. 5. Section 53532 of the Government Code, as amended by Section 4 of Chapter 293 of the Statutes of 1983, is amended to read:

53532. The provisions of Section 53531 shall apply only to coupon rates and shall not affect the power of a local agency to sell bonds at a discount below par if permitted by law. Any provision of law permitting bonds to be sold at a discount but specifying a maximum interest yield on bonds sold at a discount to the contrary notwithstanding, the bonds may be sold at a price yielding to the purchaser an effective interest rate of not to exceed 10 percent per year, payable as permitted by law, according to standard tables of bond values.

This section shall become operative January 1, 1988.

SEC. 6. Section 53541 of the Government Code, as amended by Section 5 of Chapter 293 of the Statutes of 1983, is amended to read:

53541. Any provision of law requiring an election to the contrary notwithstanding, the legislative body without a vote of the electors may issue bonds of the local agency, zone or improvement district if:

(a) The principal amount of such bonds does not exceed the then unissued balance of the principal amount of bonds of the same type authorized at an election heretofore held in the local agency, or in such zone or improvement district;

(b) The bonds are issued for the same purpose as that for which the unissued bonds were authorized; and

(c) The bonds are issued in accordance with the laws governing the issuance of bonds of the local agency, except for the requirement of a bond election.

Bonds issued pursuant to this section may bear interest at a rate or rates not to exceed 12 percent per year. When bonds are issued pursuant to this section, unissued bonds as referred to in subdivisions (a) and (b) of this section in a principal amount at least equal to the principal amount of bonds issued pursuant to this section, shall be canceled by order of the legislative body and shall not be issued.

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. 7. Section 53541 of the Government Code, as amended by Section 6 of Chapter 293 of the Statutes of 1983, is amended to read:

53541. Any provision of law requiring an election to the contrary notwithstanding, the legislative body without a vote of the electors may issue bonds of the local agency, zone or improvement district if:

(a) The principal amount of such bonds does not exceed the then unissued balance of the principal amount of bonds of the same type authorized at an election heretofore held in the local agency, or in such zone or improvement district;

(b) The bonds are issued for the same purpose as that for which the unissued bonds were authorized; and

(c) The bonds are issued in accordance with the laws governing the issuance of bonds of the local agency, except for the requirement of a bond election.

Bonds issued pursuant to this section may bear interest at a rate or rates not to exceed 10 percent per year. When bonds are issued pursuant to this section, unissued bonds as referred to in subdivisions (a) and (b) of this section in a principal amount at least equal to the principal amount of bonds issued pursuant to this section, shall be canceled by order of the legislative body and shall not be issued.

This section shall become operative January 1, 1988.

CHAPTER 580

An act to amend Section 89304 of the Education Code, relating to student fees.

[Approved by Governor September 13, 1985 Filed with Secretary of State September 16, 1985.]

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

SECTION 1. Section 89304 of the Education Code is amended to read:

89304. Upon the favorable vote of two-thirds of the students voting in an election held for the purpose at a state university, in the manner the trustees shall prescribe, and open to all regular students enrolled in the state university, the trustees are authorized to fix, in addition to any other student fee the trustees are authorized to fix, a building and operating fee not to exceed forty dollars ($40) per student per academic year which shall be required of all students attending the state university. All unexpended funds and money collected by any state university under this section shall be available for financing, operating, and constructing a student body center, and until so used, shall, subject to the approval of the trustees, be

deposited or invested in trust by the chief fiscal officer of that state university in any one or more of the following ways:

(a) Deposits in trust accounts of the centralized Treasury system pursuant to Sections 16305 to 16305.7, inclusive, of the Government Code or in the California State University Trust Fund or in a bank or banks whose accounts are insured by the Federal Deposit Insurance Corporation.

(b) Investment certificates or withdrawable shares in state-chartered savings and loan associations and savings accounts of federal savings and loan associations, if the associations are doing business in this state and have their accounts insured by the Federal Savings and Loan Insurance Corporation.

(c) Purchase of any of the securities authorized for investment by Section 16430 of the Government Code or investment by the Treasurer in those securities.

(d) Participation in funds which are exempt from federal income tax pursuant to Section 501 (c) (3) of the Internal Revenue Code and which are open exclusively to nonprofit colleges, universities, and independent schools.

(e) Investment certificates or withdrawable shares in federal or state credit unions, if the credit unions are doing business in this state and have their accounts insured by the National Credit Union Administration and if any money so invested or deposited is invested or deposited in certificates, shares, or accounts fully covered by that insurance.

The chief fiscal officer of each state university shall be custodian of those moneys and provide the necessary accounting records and controls thereof.

The state university shall be reimbursed from these funds in an amount to cover the cost of the custodial and accounting services provided by the state university in connection with these funds.

These funds may be expended by the custodian only upon the submission of an appropriate claim schedule by an elected representative of the student body or his or her appointee.

CHAPTER 581

An act to amend Section 3527 of the Business and Professions Code, relating to physician's assistants.

[Approved by Governor September 13, 1985. Filed with Secretary of State September 16, 1985.]

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

SECTION 1. Section 3527 of the Business and Professions Code is amended to read:

3527. (a) The committee may order the denial of an application

for, or the issuance subject to terms and conditions of, or the suspension or revocation of, or the imposition of probationary conditions upon a physician's assistant certificate after a hearing as required in Section 3528 for unprofessional conduct which includes, but is not limited to, a violation of this chapter, a violation of the State Medical Practice Act, or a violation of the regulations adopted by the committee or the board.

(b) The committee may order the denial of an application for, or the suspension or revocation of, or the imposition of probationary conditions upon, an approved program after a hearing as required in Section 3528 for a violation of this chapter or the regulations adopted pursuant thereto.

(c) The board may order the denial of an application for, or the issuance subject to terms and conditions of, or the suspension or revocation of, or the imposition of probationary conditions upon, an approval to supervise a physician's assistant, after a hearing as required in Section 3528, for unprofessional conduct, which includes, but is not limited to, a violation of this chapter, a violation of the Medical Practice Act, or a violation of the regulations adopted by the committee or the board.

(d) Notwithstanding subdivision (c), the Division of Medical Quality of the Board of Medical Quality Assurance, in conjunction with an action it has commenced against a physician and surgeon, may, in its own discretion and without the concurrence of the board, order the suspension or revocation of, or the imposition of probationary conditions upon, an approval to supervise a physician's assistant, after a hearing as required in Section 3528, for unprofessional conduct, which includes, but is not limited to, a violation of this chapter, a violation of the Medical Practice Act, or a violation of the regulations adopted by the committee or the board.

CHAPTER 582

An act to amend Sections 4440, 4677, and 4784 of, and to add Section 4440.5 to, the Welfare and Institutions Code, relating to developmental disabilities.

[Approved by Governor September 13, 1985. Filed with Secretary of State September 16, 1985.]

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

SECTION 1. Section 4440 of the Welfare and Institutions Code is amended to read:

4440. The department has jurisdiction over the following institutions:

Agnews State Hospital.

Camarillo State Hospital.

Fairview State Hospital.
Napa State Hospital.
Frank D. Lanterman State Hospital.
Porterville State Hospital.
Sonoma State Hospital.
Stockton State Hospital.

SEC. 2. Section 4440.5 is added to the Welfare and Institutions Code, to read:

4440.5. A state hospital under the jurisdiction of the department may also be known as a developmental center.

SEC. 3. Section 4677 of the Welfare and Institutions Code is amended to read:

4677. (a) All parental fees collected by or for regional centers shall be remitted to the State Treasury to be deposited in the Developmental Disabilities Program Development Fund, which is hereby created and hereinafter called the Program Development Fund. The purpose of the Program Development Fund shall be to provide resources needed to initiate new programs, consistent with approved priorities for program development in the state plan.

In no event shall an allocation from the Program Development Fund be granted for more than 24 months.

On or before October 1, 1982, the State Council on Developmental Disabilities shall request from all regional centers information on priority services needed but currently unavailable. Based on the information provided by the regional centers and other local agencies, the State Council on Developmental Disabilities shall annually develop an assessment of the level of need for new community programs. This needs assessment shall be included in the state plan. The State Council on Developmental Disabilities, in consultation with the State Department of Developmental Services, shall make a recommendation to the Department of Finance as to the level of funding for program development to be included in the Governor's Budget, based upon this needs assessment.

(b) Parental fee schedules shall be evaluated pursuant to Section 4784 and adjusted annually by the department, with the approval of the state council. Fees for out-of-home care shall bear an equitable relationship to the cost of the care and the ability of the family to pay.

(c) In addition to parental fees and General Fund appropriations, the Program Development Fund may be augmented by federal funds available to the state for program development purposes, when these funds are allotted to the Program Development Fund in the state plan. The Program Development Fund is hereby appropriated to the department, and subject to any allocations which may be made in the annual Budget Act. In no event shall any of these funds revert to the General Fund.

(d) The department may allocate funds from the Program Development Fund for any legal purpose, provided that requests for proposals and allocations are approved by the state council in consultation with the department, and are consistent with the

priorities for program development in the state plan. Allocations from the Program Development Fund shall take into consideration the following factors:

(1) The future fiscal impact of the allocations on other state supported programs for developmentally disabled persons.

(2) The information on priority services needed, but currently unavailable, submitted by the regional centers.

Consistent with the level of need as determined in the state plan, excess parental fees may be used for purposes other than new program development only when specifically appropriated to the State Department of Developmental Services for those purposes.

For the 1982–83 fiscal year only, parental fees in excess of those appropriated in the Budget Act of 1982 are hereby appropriated to the State Department of Developmental Services for purchasing services by regional centers.

(e) Under no circumstances shall the deposit of federal moneys into the Program Development Fund be construed as requiring the State Department of Developmental Services to comply with a definition of "developmental disabilities" and "services for persons with developmental disabilities" other than as specified in subdivisions (a) and (b) of Section 4512 for the purposes of determining eligibility for developmental services or for allocating parental fees and state general funds deposited in the Program Development Fund.

SEC. 4. Section 4784 of the Welfare and Institutions Code is amended to read:

4784. (a) The Director of Developmental Services shall establish, annually review, and adjust as needed, a schedule of parental fees for services received through the regional centers. This schedule shall be revised to reflect changes in economic conditions that affect parents' ability to pay the fee, but not to exceed an inflationary factor as determined by the department.

(b) The parental fee schedule established pursuant to this section shall be exempt from Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(c) In establishing the amount parents shall pay, the director shall take into account all of the following factors:

(1) Medical expenses incurred prior to regional center care.

(2) Whether the child is living at home.

(3) Parental payments for medical expenses, clothing, incidentals, and other items considered necessary to the normal rearing of a child.

(4) Transportation expenses incurred in visiting a child.

(d) All parental payments shall be deposited in the Program Development Fund established in Chapter 6 (commencing with Section 4670) to provide resources needed to initiate new programs, consistent with approved priorities for program development in the state plan.

CHAPTER 583

An act to amend Section 25180 of the Health and Safety Code, relating to hazardous waste.

[Approved by Governor September 13, 1985. Filed with Secretary of State September 16, 1985.]

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

SECTION 1. Section 25180 of the Health and Safety Code is amended to read:

25180. (a) The standards and regulations adopted by the department pursuant to Section 25150 shall be enforced by the department or any local health officer or any local public officer as designated by the director.

(b) In addition to the persons specified in subdivision (a), any traffic officer, as defined by Section 625 of the Vehicle Code and, any peace officer specified in Section 830.1 of the Penal Code may enforce Section 25160, subdivisions (a) and (e) of Section 25163, and subdivision (b) of Section 25169.1.

(c) Local health officers, or their representatives, or both, shall enforce the regulations adopted by the department pursuant to Section 25157.3.

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. No reimbursement shall be made from the State Mandates Claims Fund pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code for costs mandated by the state pursuant to this act. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Part 7 (commencing with Section 17500) and any other provisions of law.

CHAPTER 584

An act to amend Section 53853 of the Government Code, relating to local agencies.

[Approved by Governor September 13, 1985. Filed with Secretary of State September 16, 1985.]

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

SECTION 1. 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 county board of education or a school or community college district which has not been accorded fiscal accountability status pursuant to Section 1080, 42650, or 85266 of the Education Code 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.

CHAPTER 585

An act to amend Section 2881 of the Public Utilities Code, relating to public utilities, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 16, 1985. Filed with Secretary of State September 17, 1985.]

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

SECTION 1. Section 2881 of the Public Utilities Code is amended to read:

2881. (a) The commission shall design and implement a program whereby each telephone corporation shall provide a telecommunications device capable of servicing the needs of the deaf or severely hearing-impaired, together with a single party line, at no charge additional to the basic exchange rate, to any subscriber who is certified as deaf or severely hearing-impaired by a licensed physician, audiologist, or a qualified state agency and to any subscriber which is an organization representing the deaf or severely hearing-impaired, as determined and specified by the commission pursuant to subdivision (d).

(b) The commission shall also design and implement a program whereby each telephone corporation shall provide a dual party relay system, using third party intervention to connect deaf or severely hearing-impaired persons and offices of organizations representing the deaf or severely hearing-impaired, as determined and specified by the commission pursuant to subdivision (d), with persons of

normal hearing by way of intercommunications devices for the deaf or severely hearing-impaired and the telephone system, making available reasonable access of all phases of public telephone service to deaf or severely hearing-impaired telephone subscribers. In order to make a dual party relay system which will meet the requirements of deaf and severely hearing-impaired persons available at a reasonable cost, the commission shall initiate an investigation, conduct public hearings to determine the most cost-effective method of providing dual party relay service to the deaf or severely hearing-impaired when using a telecommunications device, and solicit the advice, counsel, and physical assistance of statewide nonprofit consumer organizations of the deaf, during the development and implementation of the system. The commission shall phase in this program, on a geographical basis, over a three-year period ending on January 1, 1987.

(c) The commission shall also design and implement a program whereby specialized or supplemental telephone communications equipment may be provided to subscribers who are certified to be disabled at no charge additional to the basic exchange rate. The certification, including a statement of medical need for specialized telephone communications equipment, shall be provided by a licensed physician and surgeon acting within the scope of his or her license or by a qualified state agency, as determined by the commission. The commission shall, in this connection, study the feasibility of, and implement if determined to be feasible, personal income criteria, in addition to the medical certification of disability, for determining a subscriber's eligibility under this subdivision.

(d) The commission shall establish a rate recovery mechanism, which shall not exceed ten cents ($0.10) per month for each line of a subscriber, to allow telephone corporations to recover costs as they are incurred under this section. The commission shall require that the programs implemented under this section be identified on subscribers' bills as "communication devices funds for deaf and disabled" and shall establish a separate fund and require separate accounting for each of the programs implemented under this section.

(e) The commission shall determine and specify those statewide organizations representing the deaf or severely hearing-impaired which shall receive a telecommunications device pursuant to subdivision (a) or a dual party relay system pursuant to subdivision (b), or both, and in which offices the equipment shall be installed in the case of an organization having more than one office. The commission shall direct the telephone corporations subject to its jurisdiction to comply with its determinations and specifications in this regard.

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

In order to facilitate the design and implementation of a program

to make special telephone communications equipment available to disabled persons as quickly as possible, it is necessary that this act become effective immediately.

CHAPTER 586

An act to amend Sections 4205, 4213, 4213.1, and 4215 of the Civil Code, relating to marriage.

[Approved by Governor September 16, 1985. Filed with Secretary of State September 17, 1985.]

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

SECTION 1. Section 4205 of the Civil Code is amended to read:

4205. Marriage may be solemnized by any judge or retired judge, commissioner of civil marriages or retired commissioner of civil marriages, commissioner or retired commissioner, or assistant commissioner of a court of record or justice court in this state, by any judge or magistrate of the United States, or by any priest, minister, or rabbi of any religious denomination, of the age of 18 years or over.

A marriage may also be solemnized by a judge or magistrate who has resigned from office.

As used in this section, "judge or magistrate of the United States" means a justice or retired justice of the United States Supreme Court, a judge or retired judge of a court of appeals, a district court, or any court created by an act of Congress the judges of which are entitled to hold office during good behavior, a judge or retired judge of a bankruptcy court or a tax court, or a United States magistrate or retired magistrate.

SEC. 2. Section 4213 of the Civil Code is amended to read:

4213. (a) When an unmarried man and an unmarried woman, not minors, have been living together as husband and wife they may be married by any person authorized to solemnize a marriage under Sections 4205, 4205.1, and 4205.5, without the necessity of first obtaining health certificates. Except as provided in Section 4213.1, a confidential marriage license shall be issued by the county clerk upon the personal appearance of the parties to be married and their payment of the fees required by Sections 26840.1 and 26840.8 of the Government Code and any fee imposed pursuant to the authorization of Section 26840.3 of the Government Code. Any license issued pursuant to this section shall be valid only for a period of 90 days after its issuance and may only be used in the county in which it is issued. The license shall be presented to the person performing the ceremony. Upon performance of the ceremony, the confidential marriage certificate shall be filled out by the parties to the marriage and authenticated by the person performing the ceremony. The certificate shall be filed by the person performing the

ceremony with the office of the county clerk in the county in which the license was issued within four days after the performance of the ceremony. Except as provided in Section 4213.2, the county clerk shall maintain the certificate as a permanent record which shall not be open to public inspection except upon order of the superior court issued upon a showing of good cause.

Upon performance of the ceremony, the person performing the ceremony shall give a copy of the confidential marriage certificate to the parties who were married. The person performing the ceremony shall also provide the parties who were married with an application for a certified copy of the confidential marriage certificate which shall be filled out by the parties and sent by the person performing the marriage to the county clerk.

The form of the confidential marriage license shall be prescribed by the State Registrar of Vital Statistics. The form shall be designed in a manner such that the parties to be married must declare or affirm that they meet all of the requirements of this section. The form also shall contain a certificate of marriage, which shall be filled out by the parties upon performance of the marriage and authenticated by the person performing the marriage.

(b) The county clerk shall issue a confidential marriage license upon the request of a notary public approved by the county clerk to authorize confidential marriages pursuant to subdivision (c) and his or her payment of the fees specified in Sections 26840.1 and 26840.8 of the Government Code. The parties shall reimburse a notary public who authorizes a confidential marriage for the amount of the fees. A confidential marriage license issued by the county clerk to a notary public shall be valid only for a period of 90 days after its issuance by the county clerk and may only be used in the county in which it was issued.

(c) (1) No notary public shall authorize a confidential marriage pursuant to this section unless he or she is approved by the county clerk to authorize such a marriage pursuant to this subdivision.

(2) An application for approval to authorize confidential marriages pursuant to this section shall be submitted to the county clerk in the county in which the notary public who is applying therefor resides. The application shall include all of the following:

(A) The full name of applicant.

(B) His or her date of birth.

(C) His or her current residential address and telephone number.

(D) The address and telephone number of the place where the applicant will issue authorizations for the performance of a marriage.

(E) The full name of his or her employer if the applicant is employed by another party.

(F) Whether or not the applicant has engaged in any of the acts specified in Section 8214.1 of the Government Code.

(3) The application shall be accompanied by a fee of one hundred seventy-five dollars ($175). An approval to authorize confidential marriages pursuant to this section shall be valid for one year. The fee

for a renewal of an approval is one hundred seventy-five dollars ($175). Fees received pursuant to this section shall be deposited in a trust fund established by the county clerk, the funds contained in which shall be used exclusively for the administration of the program described in this subdivision.

(4) If, after an approval to authorize confidential marriages is granted pursuant to this subdivision, it is discovered that the notary public has engaged in any of the actions specified in Section 8214.1 of the Government Code, the approval shall be revoked. In such a case, any fees paid by the notary public may be retained by the county clerk.

(5) No approval shall be granted pursuant to this subdivision unless the notary public shows evidence of successful completion of a course of instruction concerning the authorization of confidential marriages that shall be conducted by the county clerk. The course of instruction shall not exceed two hours in duration.

(6) The county clerk shall maintain a list of the notaries public who are approved to authorize confidential marriages. The list shall be available for inspection by the public. It is the responsibility of a notary public approved to authorize confidential marriages pursuant to this subdivision to keep current the information required in subparagraphs (A), (C), (D), and (E) of paragraph (2). This information shall be used by the county clerk to update the list required to be maintained by this paragraph.

(7) If a notary public who is approved to authorize confidential marriages pursuant to this subdivision is alleged to have violated any of the provisions of this article, the county clerk shall conduct a hearing to determine if the approval of the notary public should be suspended or revoked. The notary public may present such evidence as is necessary in his or her defense. If the county clerk determines that the notary public has violated any of the provisions of this article, the county clerk may place the notary public on probation or suspend or revoke his or her registration. The county clerk shall report the findings of the hearing to the Secretary of State for whatever action the Secretary of State deems appropriate.

(d) A violation of paragraph (1) of subdivision (c) is a misdemeanor punishable by a fine not to exceed one thousand dollars ($1,000) or six months in jail.

(e) The county clerk shall, not less than quarterly, transmit copies of all confidential marriage certificates filed after January 1, 1982, to the State Registrar of Vital Statistics. The registrar may destroy the copies so transmitted after they have been indexed. The registrar may respond to an inquiry as to the existence of a marriage performed pursuant to this section, but shall not disclose the date of such a marriage.

(f) The county clerk may conduct a search for a confidential marriage certificate for the purpose of confirming the existence of a marriage; however, the date of the marriage and any other information contained in the certificate shall not be disclosed except

upon order of the superior court.

(g) A party to a confidential marriage may obtain a certified copy of the confidential marriage certificate from the county clerk of the county in which the certificate is filed in any of the following ways:

(1) By submitting the application for a certified copy of the confidential marriage certificate provided to the parties at the time of the marriage.

(2) By personally appearing before a notary public or at the county clerk's office in his or her county of residence, producing proper identification, obtaining a certificate attesting to his or her identity from the notary public or county clerk, and transmitting that certificate, together with a request for the certified copy of the confidential marriage certificate, to the county clerk of the county with which the certificate is filed.

(3) By personally appearing at the county clerk's office where the certificate is filed and producing proper identification.

Copies of a confidential marriage certificate may be issued to the parties to such a marriage upon the payment of a fee equivalent to that charged for copies of a certificate of marriage.

(h) In the event that a certificate furnished pursuant to this section is lost, damaged, or destroyed after the performance of the marriage and before it is filed, the county clerk may issue a replacement upon the payment of a fee of five dollars ($5).

SEC. 3. Section 4213.1 of the Civil Code is amended to read:

4213.1. If, for any reason, either or both of the parties to be married is physically unable to appear in person before the county clerk, a confidential marriage license shall be issued by the county clerk to the person performing the ceremony upon that person's presenting an affidavit to the county clerk signed by the person and the parties to be married, explaining the reason for the inability to appear.

SEC. 4. Section 4215 of the Civil Code is amended to read:

4215. The provisions of this article, so far as they relate to the solemnizing of marriages, are not applicable to members of any particular religious denomination having, as such, any peculiar mode of entering the marriage relation; but those marriages must be declared, as provided in Section 4210, and be acknowledged and recorded, as provided in Section 4211. Where a marriage is declared as provided in Section 4210 the husband or wife must file the declaration with the county recorder within 30 days after the marriage, and upon receiving it the county recorder must record the declaration. If the husband or wife fails to make the declaration and file it for record they are liable to the same penalties as any person authorized to solemnize marriages, who fails to make the return of the solemnization as provided by law.

SEC. 5. Any marriage solemnized by a judge or magistrate of the United States, as defined in Section 4205 of the Civil Code, as amended by this act, in this state prior to the effective date of this act that is not otherwise invalid is hereby retroactively validated as

of the date on which it was solemnized.

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. No reimbursement is required by this act pursuant to 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 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. Reimbursement to local agencies and school districts for costs mandated by the state pursuant to this act shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code and, if the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), shall be made from the State Mandates Claims Fund.

CHAPTER 587

An act to amend Sections 163.5 and 7137 of, and to add and repeal Section 163.6 of, the Business and Professions Code, and to amend Section 11522 of the Government Code, relating to licenses, and making an appropriation therefor.

[Approved by Governor September 16, 1985. Filed with Secretary of State September 17, 1985]

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

SECTION 1. Section 163.5 of the Business and Professions Code is amended to read:

163.5. Except as otherwise provided by law, the delinquency, penalty, or late fee for any licensee within the Department of Consumer Affairs shall be 50 percent of the renewal fee for such license in effect on the date of the renewal of the license, but not less than twenty-five dollars ($25) nor more than one hundred fifty dollars ($150).

A delinquency, penalty, or late fee shall not be assessed until 30 days have elapsed from the date that the licensing agency mailed a notice of renewal to the licensee at the licensee's last known address of record. The notice shall specify the date for timely renewal, and that failure to renew in a timely fashion shall result in the assessment of a delinquency, penalty, or late fee.

In the event a reinstatement or like fee is charged for the reinstatement of a license, the reinstatement fee shall be 150 percent of the renewal fee for such license in effect on the date of the

reinstatement of the license, but not more than twenty-five dollars ($25) in excess of the renewal fee, except that in the event that such a fee is fixed by statute at less than 150 percent of the renewal fee and less than the renewal fee plus twenty-five dollars ($25), the fee so fixed shall be charged.

SEC. 2. Section 163.6 is added to the Business and Professions Code, to read:

163.6. Whenever any board, bureau, committee, or commission experiences an increase in revenue as a result of the provisions of the act which added this section, a commensurate reduction in license renewal fees shall be adopted by the affected licensing agency by resolution of the board, committee, or commission or by directive of the director in the case of a bureau. A determination of the increased revenue shall be made at the conclusion of the appropriate renewal cycle for each licensing agency commencing on June 30, 1987. When a reduction in renewal fees is required, the reduction shall be made within 90 days of the next renewal period, and, in the case of a continuous renewal cycle, the determination of surplus shall be made at the end of each fiscal year and a commensurate reduction in renewal fees ordered by the end of the first quarter of the following fiscal year.

This section shall become inoperative on June 30, 1991, and, as of January 1, 1992, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1992, deletes or extends the dates on which it becomes inoperative and is repealed.

It is the intent of the Legislature that by June 30, 1991, every board, bureau, committee, and commission shall have permanently adjusted their license renewal fees to offset any additional revenue resulting from the act which added this section.

SEC. 3. Section 7137 of the Business and Professions Code is amended to read:

7137. The amount of the fees prescribed by this chapter shall be fixed by the board according to the following schedule:

(a) The application fee for an original license in a single classification shall not exceed one hundred fifty dollars ($150).

The application fee for each additional classification applied for in connection with an original license shall not exceed fifty dollars ($50).

The application fee for each additional classification pursuant to Section 7059 shall not exceed fifty dollars ($50).

The application fee to replace a responsible managing officer or employee pursuant to Section 7068.2 shall not exceed fifty dollars ($50).

(b) The fee for rescheduling an examination for an applicant who has applied for an original license, additional classification, or a change of responsible managing officer or responsible managing employee, shall not exceed fifty dollars ($50).

(c) The initial license fee for an active or inactive license shall not exceed one hundred fifty dollars ($150).

(d) The renewal fee for an active license shall not exceed two hundred dollars ($200).

The renewal fee for an inactive license shall not exceed fifty dollars ($50).

(e) The delinquency fee is an amount equal to 50 percent of the renewal fee, but not more than twenty-five dollars ($25).

(f) The registration fee for a home improvement salesperson shall not exceed fifty dollars ($50).

(g) The renewal fee for a home improvement salesperson registration shall not exceed seventy-five dollars ($75).

SEC. 4. Section 11522 of the Government Code is amended to read:

11522. A person whose license has been revoked or suspended may petition the agency for reinstatement or reduction of penalty after a period of not less than one year has elapsed from the effective date of the decision or from the date of the denial of a similar petition. The agency shall give notice to the Attorney General of the filing of the petition and the Attorney General and the petitioner shall be afforded an opportunity to present either oral or written argument before the agency itself. The agency itself shall decide the petition, and the decision shall include the reasons therefor, and any terms and conditions that the agency reasonably deems appropriate to impose as a condition of reinstatement. This section shall not apply if the statutes dealing with the particular agency contain different provisions for reinstatement or reduction of penalty.

SEC. 5. The Legislature finds and declares that the amendments to Section 11522 of the Government Code made by this act reflect the original intent of the Legislature in enacting Section 11522 of the Government Code, and that the amendments to that section made by this act do not constitute a change in, but are declaratory of, the existing law.

CHAPTER 588

An act to amend Section 227a of the Civil Code, relating to adoptions.

[Approved by Governor September 16, 1985 Filed with Secretary of State September 17, 1985.]

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

SECTION 1. Section 227a of the Civil Code is amended to read:

227a. Notwithstanding any other provisions of this chapter, the probation officer or, at option of the board of supervisors, the county welfare department in the county in which the action for adoption is pending shall make an investigation of each case of adoption by a stepparent where one natural parent retains custody and control of

the child. No order of adoption shall be made by the court until after the probation officer has filed his or her or the welfare department has filed its report and recommendation and it has been considered by the court.

No home study shall be required of the petitioner's home in such a case unless ordered by the court. The agency conducting the investigation or any interested person may request the court to order a home study or the court may order such a study on its own motion.

As used in this section, "home study" means a physical investigation of the premises where the child is residing.

CHAPTER 589

An act to amend Section 58604.5 of the Food and Agricultural Code, relating to marketing orders.

[Approved by Governor September 16, 1985 Filed with Secretary of State September 17, 1985]

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

SECTION 1. Section 58604.5 of the Food and Agricultural Code is amended to read:

58604.5. "Advertising and sales promotion" also means, in addition to its ordinary accepted meaning, activities for the modification or removal of trade barriers that restrict the free flow of a commodity to market, including negotiation with federal and foreign governments, and the allowance of reimbursement payments to offset commodity transportation or other costs to selected domestic and foreign markets.

Domestic f.o.b. selling price shall not be used as a factor in determining qualifications for reimbursement payments unless the director determines that there is no feasible alternative for establishing these qualifications.

This section shall become inoperative on May 31, 1992, and, as of January 1, 1993, is repealed, unless a later enacted statute, which is chaptered before January 1, 1993, deletes or extends the dates on which it becomes inoperative and is repealed.

CHAPTER 590

An act to validate the organization, boundaries, acts, proceedings, and bonds of public bodies, as herein defined, and to provide limitations of time within which actions may be commenced in connection therewith.

[Approved by Governor September 16, 1985. Filed with Secretary of State September 17, 1985]

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

SECTION 1. The following terms shall have the following meanings herein:

(a) The term "public body" means the state and all departments, agencies, boards, commissions, and authorities of the state. "Public body" also means counties, cities and counties, cities, and the following districts, authorities, agencies, boards, commissions, and other entities:

Agencies, boards, commissions, or entities constituted or provided for under or pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code.

Air pollution control districts.

Air quality management districts.

Airport districts.

Assessment districts.

Bridge and highway districts.

Bridge, highway, and transportation districts.

California water district distribution districts.

California water district improvement districts.

California water districts.

Cemetery districts.

Citrus pest control districts.

City general improvement district improvement districts.

City general improvement districts.

City maintenance districts.

Community college districts.

Community development commission.

Community facilities districts.

Community service district improvement districts.

Community service districts.

Conservancy districts.

Cotton pests abatement districts.

County boards of education.

County drainage districts.

County fire protection districts.

County flood control and water districts.

County free library systems.

County maintenance districts.

County power pumping districts.

County sanitation district improvement districts.

County sanitation districts.

County service area improvement areas.

County service areas.

County sewage and water districts.

County water agencies.

County water authorities.
County water district improvement districts.
County water districts.
County waterworks districts.
Crossing guard maintenance districts.
Department of Water Resources and other agencies acting under and pursuant to Part 3 (commencing with Section 11100) of Division 6 of the Water Code.
Drainage districts.
Fire protection districts.
Flood control and water conservation districts.
Flood control districts.
Garbage and refuse disposal districts.
Garbage disposal districts.
Geologic hazard abatement districts.
Harbor districts.
Harbor improvement districts.
Harbor, recreation, and conservation districts.
Highway districts.
Highway interchange districts.
Highway lighting districts.
Horticultural development districts.
Horticultural protection districts.
Housing authorities.
Industrial development authorities.
Irrigation district distribution districts.
Irrigation district improvement districts.
Irrigation districts.
Joint harbor improvement districts.
Joint highway districts.
Joint municipal sewage disposal districts.
Junior college districts.
Levee districts.
Library districts.
Local health districts.
Local hospital districts.
Metropolitan transit development boards.
Metropolitan water districts.
Mosquito abatement districts.
Mosquito abatement or vector control districts.
Municipal facilities districts.
Municipal improvement assessment districts.
Municipal improvement district improvement districts.
Municipal improvement districts.
Municipal port districts.
Municipal sewer districts.
Municipal utility districts.
Municipal water district improvement districts.
Municipal water districts of any kind.

Parking authorities.
Parking districts.
Park, recreation, and parkway districts.
Permanent road divisions.
Pest abatement districts.
Port districts.
Project areas of redevelopment agencies.
Protection districts.
Public cemetery districts.
Public utility district improvement districts.
Public utility districts.
Rapid transit authorities.
Rapid transit districts.
Reclamation districts.
Recreational harbor districts.
Recreation and park districts.
Recreation, park, and parkway districts.
Redevelopment agencies.
Regional open-space districts.
Regional park and open-space districts.
Regional park districts.
Regional planning districts.
Resort improvement districts.
Resource conservation districts.
River port districts.
Road districts.
Sanitary agencies.
Sanitary districts.
Sanitary districts annexed areas.
School districts of any kind or class.
Separation of grade districts.
Sewer maintenance districts.
Special community services districts.
Special transit service districts.
Special benefit assessment districts of the Southern California Rapid Transit District.
Storm water districts.
Transit districts.
Underground utility districts.
Unified air pollution control districts.
Unified port districts.
Urban renewal agencies.
Vehicle parking districts.
Veterans' memorial districts.
Water agencies.
Water authorities.
Water conservation districts.
Water districts.
Water replenishment districts.

Water storage district improvement districts.
Water storage districts.
Weed abatement districts.
Zones of community service districts.
Zones of county water agencies.
Zones of county water authorities.
Zones of county waterworks districts.
Zones of flood control and water conservation districts.
Zones of flood control districts.

The term "public body" and the plural thereof, as used in this act, shall include only those entities which are specifically enumerated in this section.

(b) The term "bonds" means all instruments evidencing an indebtedness of a public body incurred or to be incurred for any public purpose, leases, installment purchase agreements, or similar agreements in which the obligor is one or more public bodies, certificates of participation evidencing interests in the leases or agreements, and all instruments evidencing the borrowing of money in anticipation of taxes, revenues, or other income of such body, and all instruments payable from revenues or special funds of such public bodies, and all instruments funding or refunding any thereof or any indebtedness.

SEC. 2. All public bodies heretofore organized or existing under, or under color of, any law are hereby declared to have been legally organized and to be legally functioning as such public body. Every such public body shall have all the rights, powers, and privileges, and be subject to all the duties and obligations, of such a public body regularly formed pursuant to law.

SEC. 3. The boundaries of every public body as heretofore established, defined, or recorded, or as heretofore actually shown on maps or plats used by the assessor, are hereby confirmed, validated, and declared legally established.

SEC. 4. All acts and proceedings heretofore taken by any public body or bodies under any law, or under color of any law, for the annexation or inclusion of territory into any such public body or for the annexation of any such public body to any other such public body or for the withdrawal or exclusion of territory from any such public body or for the consolidation, merger, or dissolution of any public bodies are hereby confirmed, validated, and declared legally effective. This shall include all acts and proceedings of the governing board of any such public body and of any person, public officer, board, or agency heretofore done or taken upon the question of the annexation or inclusion or of the withdrawal or exclusion of such territory or the consolidation, merger, or dissolution of such public bodies.

SEC. 5. All acts and proceedings heretofore taken by or on behalf of any public body under any law, or under color of any law, for the authorization, issuance, sale, or exchange of bonds of any such public body for any public purpose are hereby confirmed, validated, and

declared legally effective. This shall include all acts and proceedings of the governing board of such public body and of any person, public officer, board, or agency heretofore done or taken upon the question of the authorization, issuance, sale, or exchange of such bonds.

All bonds of any public body heretofore issued shall be, in the form and manner in which issued and delivered, the legal, valid, and binding obligations of the public body. All bonds of any public body heretofore awarded and sold to a purchaser and hereafter issued and delivered in accordance with the contract of sale and other proceedings for the award and sale shall be the legal, valid, and binding obligations of the public body. All bonds of any public body heretofore authorized to be issued by ordinance, resolution, order, or other action adopted or taken by or on behalf of the public body and hereafter issued and delivered in accordance with such authorization shall be the legal, valid, and binding obligations of the public body. All bonds of any public body heretofore authorized to be issued at an election and hereafter issued and delivered in accordance with such authorization shall be the legal, valid, and binding obligations of the public body. Whenever an election has heretofore been called for the purpose of submitting to the voters of any public body the question of issuing bonds for any public purpose, such bonds, if hereafter authorized by the required vote and in accordance with the proceedings heretofore taken, and issued and delivered in accordance with such authorization, shall be the legal, valid, and binding obligations of the public body.

SEC. 6. (a) The foregoing provisions of this act shall operate to supply such legislative authorization as may be necessary to validate any such acts and proceedings heretofore taken which the Legislature could have supplied or provided for in the law under which such acts or proceedings were taken.

(b) The foregoing provisions of this act shall be limited to the validation of acts and proceedings to the extent to which the same can be effectuated under the State and Federal Constitutions.

(c) The foregoing provisions of this act shall not operate to confirm, validate, or legalize any act, proceeding, or other matter the legality of which is being contested or inquired into in any legal proceeding now pending and undetermined or which is pending and undetermined during the period of 30 days from and after the effective date of this act, and shall not operate to confirm, validate, or legalize any act, proceeding, or other matter which has heretofore been determined in any legal proceeding to be illegal, void, or ineffective.

(d) This act shall not operate to confirm, validate, or legalize a contract between any district and the United States.

SEC. 7. Any action or proceeding contesting the validity of any action or proceeding heretofore taken under any law, or under color of any law, for the formation, organization, or incorporation of any public body, or for any annexation thereto, exclusion therefrom, or other change of boundaries thereof, or for the consolidation, merger,

or dissolution of any public bodies, or for the authorization, issuance, sale, or exchange of bonds thereof upon any ground involving any alleged defect or illegality not effectively validated by the prior provisions of this act and not otherwise barred by any statute of limitations or by laches must be commenced within six months of the effective date of this act; otherwise each and all of such matters shall be held to be valid and in every respect legal and incontestable. This section shall not extend the period in which any action may be brought beyond the period in which it would be barred by any presently existing valid statute of limitations.

SEC. 8. Nothing contained in this act shall be construed to render the creation of any city or district, or any change in the boundaries of any city or district, effective for purposes of assessment or taxation unless the statement, together with the map or plat, required to be filed under Sections 54900 to 54904, inclusive, of the Government Code, is filed within the time and substantially in the manner required by said sections.

SEC. 9. As used in this act, the word "now" means the date this act takes effect; the word "heretofore" means any time prior to such effective date; and the word "hereafter" means any time subsequent to such effective date.

SEC. 10. This act may be cited as the Third Validating Act of 1985.

CHAPTER 591

An act to amend Section 7480 of the Government Code, and to amend Sections 6012.2, 6356, 6901, 6981, 8126, 8191, 8608, 9151, 9154, 9196, 12951, 12977, 30361, 30421, 32401. 32440, 38601, 38631, 40111, 40121, 41051, 41052, 41071, 41076, 41082, 41088, 41100, 41101, 41107, 43451, 43491, 44030, 44066, 44083, 44091, 44100, 44101, and 44110 of, to amend and renumber Section 7059 of, and to add Sections 6074, 7203.2, 7262.2, 41078, and 44067 to, the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 16, 1985 Filed with Secretary of State September 17, 1985.]

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

SECTION 1. Section 7480 of the Government Code is amended to read:

7480. Nothing in this chapter prohibits any of the following:

(a) The dissemination of any financial information which is not identified with, or identifiable as being derived from, the financial records of a particular customer.

(b) When any police or sheriff's department or district attorney in this state certifies to a bank, credit union, or savings and loan association in writing that a crime report has been filed which

involves the alleged fraudulent use of drafts, checks or other orders drawn upon any bank, credit union, or savings and loan association in this state, such police or sheriff's department or district attorney may request a bank, credit union, or savings and loan association to furnish, and a bank, credit union, or savings and loan association shall supply, a statement setting forth the following information with respect to a customer account specified by the police or sheriff's department or district attorney for a period 30 days prior to and up to 30 days following the date of occurrence of the alleged illegal act involving the account:

(1) The number of items dishonored;

(2) The number of items paid which created overdrafts;

(3) The dollar volume of such dishonored items and items paid which created overdrafts and a statement explaining any credit arrangement between the bank, credit union, or savings and loan association and customer to pay overdrafts;

(4) The dates and amounts of deposits and debits and the account balance on such dates;

(5) A copy of the signature and any addresses appearing on a customer's signature card; and

(6) The date the account opened and, if applicable, the date the account closed.

(c) The Attorney General, the Franchise Tax Board, the State Board of Equalization, the Employment Development Department, the Controller or an inheritance tax referee when administering the Inheritance Tax Law (Part 8 (commencing with Section 13301), Division 2, Revenue and Taxation Code), or a police or sheriff's department or district attorney or a county welfare department when investigating welfare fraud from requesting of an office or branch of a financial institution, and the office or branch from responding to such a request, as to whether a person has an account or accounts at that office or branch and, if so, any identifying numbers of such account or accounts.

No additional information beyond that specified in this section shall be released to a county welfare department without either the account holder's written consent or a judicial writ, search warrant, subpoena, or other judicial order.

(d) The examination by, or disclosure to, any supervisory agency of financial records which relate solely to the exercise of its supervisory function. The scope of an agency's supervisory function shall be determined by reference to statutes which grant authority to examine, audit, or require reports of financial records or financial institutions as follows:

(1) With respect to the Superintendent of Banks by reference to Division 1 (commencing with Section 99), Division 15 (commencing with Section 31000), and Division 16 (commencing with Section 33000) of the Financial Code.

(2) With respect to the Department of Savings and Loan by reference to Division 2 (commencing with Section 5000) of the

Financial Code.

(3) With respect to the Corporations Commissioner by reference to Division 5 (commencing with Section 14000) and Division 7 (commencing with Section 18000) of the Financial Code.

(4) With respect to the Controller by reference to Title 10 (commencing with Section 1300) of Part 3 of the Code of Civil Procedure.

(5) With respect to the Administrator of Local Agency Security by reference to Article 2 (commencing with Section 53630) of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code.

(e) The disclosure to the Franchise Tax Board of (1) the amount of any security interest a financial institution has in a specified asset of a customer or (2) financial records in connection with the filing or audit of a tax return or tax information return required to be filed by the financial institution pursuant to Part 10, 11, or 18 of the Revenue and Taxation Code.

(f) The disclosure to the State Board of Equalization of any of the following:

(1) The information required by Sections 6702, 6703, 8954, 8957, 30313, 30315, 32383, 32387, 38502, 40153, 40155, 41123.5, 43444.2, and 44144 of the Revenue and Taxation Code.

(2) The financial records in connection with the filing or audit of a tax return required to be filed by the financial institution pursuant to Parts 1, 2, 3, 13, 14, and 17 of the Revenue and Taxation Code.

(3) The amount of any security interest a financial institution has in a specified asset of a customer, if the inquiry is directed to the branch or office where the interest is held.

(g) The disclosure to the Controller of the information required by Section 7853 of the Revenue and Taxation Code.

(h) The disclosure to the Employment Development Department of the amount of any security interest a financial institution has in a specified asset of a customer, if the inquiry is directed to the branch or office where the interest is held.

SEC. 2. Section 6012.2 of the Revenue and Taxation Code is amended to read:

6012.2. (a) For purposes of this part, "gross receipts" from the sale of a used mobilehome, as defined in Section 18014 of the Health and Safety Code, and the "sales price" of a used mobilehome, sold or stored, used, or otherwise consumed in this state shall be based on the current value of the used mobilehome, as specified by a recognized value guide, whenever a registered or legal owner sells a used mobilehome through a person licensed under the Health and Safety Code as a dealer and not on the dealer's own account or through a licensed real estate broker acting pursuant to Section 10131.6 of the Business and Professions Code, or whenever a purchaser of a used mobilehome is required to pay the use tax to the Department of Housing and Community Development.

If the value guide does not specify the model or manufacturer of a used mobilehome, the value of the used mobilehome shall be

established by reference to the highest value in the value guide according to age and size, or the actual sales price, whichever is less. If the actual sales price of a used mobilehome is less than the current value specified in the value guide, the "sales price" and "gross receipts" shall be based on the actual sales price of the mobilehome as evidenced by the purchase documents. The State Board of Equalization shall approve the value guides for use within this state through regulation.

(b) For the purposes of this part, "gross receipts" from the sale of a mobilehome, whether new or used, and the "sales price" of a mobilehome, whether new or used, shall exclude the amount of separately stated escrow fees on the sale of such mobilehome.

(c) For purposes of this section, "actual sales price" means the total contract price including, but not limited to, the value of the mobilehome as a vehicle, in-place location, awning, skirting, carport, patio, landscaping, shrubs, unattached furnishings, or other items not part of the mobilehome as a vehicle.

(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 chaptered before January 1, 1987, deletes or extends that date.

SEC. 3. Section 6074 is added to the Revenue and Taxation Code, to read:

6074. (a) When the board determines it is necessary for the efficient administration of this part, the board may require any person making sales to operators of catering trucks who resell the property in the regular course of his or her business, to obtain evidence that the operator is the holder of a valid seller's permit issued pursuant to Section 6067.

(b) Any person making sales to the operator of a catering truck who fails to comply with this section shall pay a penalty of five hundred dollars ($500) for each such failure to comply.

(c) If the board finds that a person's failure to comply with this section 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 imposed by this section.

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.

SEC. 4. Section 6356 of the Revenue and Taxation Code is amended to read:

6356. There are exempted from the sales tax the gross receipts from sales of vessels of more than 1,000 tons burden by the builders thereof.

SEC. 5. Section 6901 of the Revenue and Taxation Code is amended to read:

6901. If the board determines that any amount, penalty, or interest has been paid more than once or has been erroneously or illegally collected or computed, 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 or by whom paid. 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 successors, administrators, or executors.

In the case, however, of a determination by the board that an amount not exceeding fifteen thousand dollars ($15,000) 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 successors, administrators, or executors.

Any overpayment of the use tax by a purchaser to a retailer who is required to collect the tax and who gives the purchaser a receipt therefor pursuant to Article 1, Chapter 3, of this part shall be credited or refunded by the state to the purchaser.

SEC. 6. Section 6981 of the Revenue and Taxation Code is amended to read:

6981. If any amount in excess of fifteen thousand dollars ($15,000) has been illegally determined 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 fifteen thousand dollars ($15,000) 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.

SEC. 7. Section 7059 of the Revenue and Taxation Code, as added by Chapter 1490 of the Statutes of 1984, is amended and renumbered to read:

7060. The board, under regulations prescribed by the board, may establish a reward program for information resulting in the identification of underreported or unreported taxes due under this part. Any reward may not exceed 10 percent of the taxes collected as a result of the information provided. Any person employed by or under contract with any state or federal tax collection agency shall not be eligible for a reward provided pursuant to this section.

SEC. 8. Section 7203.2 is added to the Revenue and Taxation Code, to read:

7203.2. The sales and use tax ordinance of a county, city, city and county, or redevelopment agency adopted pursuant to this part, shall be deemed to adopt by reference the provisions of Sections 7202 to 7203, inclusive, as now in effect or as later amended, which are

required to be included in the ordinance, regardless of whether or not the ordinance was adopted or amended, prior to or after the effective date of this section.

SEC. 9. Section 7262.2 is added to the Revenue and Taxation Code, to read:

7262.2. The transactions and use tax ordinance of a district adopted pursuant to this part, shall be deemed to adopt by reference the provisions of Sections 7261 and 7262, as now in effect or as later amended, which are required to be included in the ordinance, regardless of whether or not the ordinance was adopted or amended prior to or after the effective date of this section.

SEC. 10. Section 8126 of the Revenue and Taxation Code is amended to read:

8126. If the board determines that any amount not required to be paid under this part has been paid by any person, the board shall set forth that fact in its records and 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 and, if the State Board of Control approves, shall certify the amount to the Controller for credit or refund.

In the case, however, of a determination by the board that an amount not exceeding fifteen thousand dollars ($15,000) was not required to be paid under this part, the board, without obtaining the approval of the State Board of Control, may certify the amount to the Controller for credit or refund.

SEC. 11. Section 8191 of the Revenue and Taxation Code is amended to read:

8191. If the board determines that any amount in excess of fifteen thousand dollars ($15,000) has been illegally determined to be due from any person 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 and the Controller. If an amount not exceeding fifteen thousand dollars ($15,000) 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 Controller and the board.

SEC. 12. Section 8608 of the Revenue and Taxation Code is amended to read:

8608. "User" includes any person who, within the meaning of the term "use" as defined in this chapter, uses fuel.

The provisions of Article 1 (commencing with Section 8701) of Chapter 3 and Article 1 (commencing with Section 8751) of Chapter 4 do not apply to a user whose sole use of fuel in this state is for the propulsion of a privately operated passenger motor vehicle, or the

propulsion of a commercial vehicle with unladen weight of less than 7,000 pounds; or for the propulsion of a privately operated two-axle truck which the user has rented or leased for a period of 30 days or less; provided, that the fuel used, except fuel brought into this state in the fuel tank of the vehicle, is purchased from and delivered into the fuel tank of the vehicle by a vendor.

When the board determines that it is necessary for the efficient administration of this part to regard any lessor of vehicles as the agent of the lessee, with regard to the equipment leased, the board may so regard the lessor and may qualify the lessee as the user for purposes of this part.

SEC. 13. Section 9151 of the Revenue and Taxation Code is amended to read:

9151. If the board determines that any amount not required to be paid under this part has been paid by any person, the board shall set forth that fact in its records and certify to the State Board of Control the amount paid in excess of the amount legally due and the person by whom the excess was paid to the board or from whom it was collected. If the State Board of Control approves, the excess amount paid or collected shall be credited 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 either be refunded to the person, or his successors, administrators, executors, or assigns, or, if authorized by the board, deducted by the person from any amounts to become due from him under this part.

In the case, however, of a determination by the board that an amount not exceeding fifteen thousand dollars ($15,000) was not required to be paid under this part, the board without obtaining the 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 successors, administrators, or executors.

Any overpayment of the tax by a user to a vendor who is required to collect the tax and who gives the user a receipt therefor pursuant to Section 8732 shall be credited or refunded by the state to the user.

SEC. 14. Section 9154 of the Revenue and Taxation Code is amended to read:

9154. In the case, however, of a determination by the board that an amount not exceeding fifteen thousand dollars ($15,000) was not required to be paid under this part, the board, without obtaining the 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 authorize the person to deduct the balance from any amounts to become due from him under this part.

SEC. 15. Section 9196 of the Revenue and Taxation Code is amended to read:

9196. If any amount in excess of fifteen thousand dollars ($15,000)

has been illegally determined 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 fifteen thousand dollars ($15,000) 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.

SEC. 16. Section 12951 of the Revenue and Taxation Code is amended to read:

12951. If an amount in excess of fifteen thousand dollars ($15,000) has been illegally assessed, the board shall set forth that fact in its records and certify to the State Board of Control the amount assessed in excess of the amount legally assessed and the insurer against whom the assessment was made. If the State Board of Control approves, it shall authorize the cancellation of the amount upon the records of the Controller and the board. If an amount not exceeding fifteen thousand dollars ($15,000) has been illegally assessed, the board, without certifying this fact to the State Board of Control, shall authorize the cancellation of the amount upon the records of the Controller and the board. The board shall mail a notice to the insurer of any cancellation authorized.

SEC. 17. Section 12977 of the Revenue and Taxation Code is amended to read:

12977. (a) If the board determines that any tax, interest, or penalty has been paid more than once or has been erroneously or illegally collected or computed, the board shall set forth that fact in its records of the board and shall certify to the State Board of Control the amount of the taxes, interest, or penalties collected in excess of what was legally due, and from whom they were collected or by whom paid. If approved by the State Board of Control, the excess shall be certified to the Controller for credit or refund. In the case, however, of a determination by the board that an amount not exceeding fifteen thousand dollars ($15,000) was not required to be paid under this part, the board without obtaining approval of the State Board of Control may certify the amount to the Controller for credit or refund.

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

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

SEC. 18. Section 30361 of the Revenue and Taxation Code is amended to read:

30361. If the board determines that any amount not required to be paid under this part has been paid by any person, the board shall set forth that fact in its records and 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 or by whom it was paid. 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 successors, administrators, or executors.

In the case, however, of a determination by the board that an amount not exceeding fifteen thousand dollars ($15,000) was not required to be paid under this part, the board, without obtaining approval of the State Board of Control, may credit such amount on any amounts then due and payable under this part from the person by whom the amount was paid and shall refund the balance to the person or his successors, administrators or executors.

SEC. 19. Section 30421 of the Revenue and Taxation Code is amended to read:

30421. If any amount in excess of fifteen thousand dollars ($15,000) has been illegally determined, the board shall set forth that fact in its records and certify to the State Board of Control the amount determined 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 fifteen thousand dollars ($15,000) has been illegally determined, 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.

SEC. 20. Section 32401 of the Revenue and Taxation Code is amended to read:

32401. If the board determines that any amount of tax, penalty, or interest has been paid more than once or has been erroneously or illegally collected or computed, 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 what was legally due and the person from whom it was collected or by whom paid. If approved by the State Board of Control the excess amount collected or paid shall be credited on any amounts then due 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 successors, administrators, or executors.

In the case, however, of a determination by the board that an amount not exceeding fifteen thousand dollars ($15,000) was not required to be paid under this part, the board without obtaining the 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 successors, administrators, or executors.

SEC. 21. Section 32440 of the Revenue and Taxation Code is amended to read:

32440. If any amount in excess of fifteen thousand dollars ($15,000) has been illegally determined, either by the person filing the return or by the board, the board shall 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 fifteen thousand dollars ($15,000) 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.

SEC. 22. Section 38601 of the Revenue and Taxation Code is amended to read:

38601. If the board determines that any amount, penalty, or interest has been paid more than once or has been erroneously or illegally collected or computed, 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 or by whom paid. 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 successors, administrators, or executors.

In the case, however, of a determination by the board that an amount not exceeding fifteen thousand dollars ($15,000) 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 successors, administrators, or executors.

SEC. 23. Section 38631 of the Revenue and Taxation Code is amended to read:

38631. If any amount in excess of fifteen thousand dollars ($15,000) has been illegally determined 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 fifteen thousand dollars ($15,000) 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.

SEC. 24. Section 40111 of the Revenue and Taxation Code is amended to read:

40111. If the board determines that any amount, penalty, or interest has been paid more than once or has been erroneously or illegally collected or computed, 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 or by whom paid. 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 successors, administrators, or executors.

In the case, however, of a determination by the board that an amount not exceeding fifteen thousand dollars ($15,000) 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 successors, administrators, or executors.

Any overpayment of the surcharge by a consumer to the state shall be credited or refunded by the state to the consumer.

SEC. 25. Section 40121 of the Revenue and Taxation Code is amended to read:

40121. If any amount in excess of fifteen thousand dollars ($15,000) has been illegally determined 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 fifteen thousand dollars ($15,000) 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.

SEC. 26. Section 41051 of the Revenue and Taxation Code is amended to read:

41051. The surcharges imposed by this part and the amounts thereof required to be collected are due quarterly, and the amount of surcharge collected in one calendar quarter by the service supplier shall be remitted to the board no later than the last day of the second month following a calendar quarter.

SEC. 27. Section 41052 of the Revenue and Taxation Code is amended to read:

41052. On or before December 1, 1978, and the last day of the second month of each calendar quarter, a return for the preceding quarter shall be filed with the board in such form as the board may

prescribe.

The service supplier will include a list of any service users who have refused to pay a cumulative total of three dollars ($3) or more of the surcharge imposed by this part with each return filing.

SEC. 28. Section 41071 of the Revenue and Taxation Code is amended to read:

41071. The amount of the determination, exclusive of penalties, shall bear interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the day specified pursuant to Section 41051 for which the amount or any portion thereof should have been returned until the date of payment.

SEC. 29. Section 41076 of the Revenue and Taxation Code is amended to read:

41076. 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 second 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 the 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 second calendar month following the month for which the amount is proposed to be determined.

SEC. 30. Section 41078 is added the Revenue and Taxation Code, to read:

41078. If before the expiration of the time prescribed in Section 41076 for the mailing of a notice of deficiency determination, the taxpayer has consented in writing to the mailing of the notice after that time, the notice may be mailed at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

SEC. 31. Section 41082 of the Revenue and Taxation Code is amended to read:

41082. The amount of the determination, exclusive of penalties, shall bear interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the day specified pursuant to Section 41051 for which the amount or any portion thereof should have been returned until the date of payment.

SEC. 32. Section 41088 of the Revenue and Taxation Code is amended to read:

41088. 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 41074 or Section 41080 applies to the amount of the determination as originally made or as increased, the claim for increase must be

asserted within eight years after the last day of the second calendar month following the quarterly period for which the increase is asserted.

SEC. 33. Section 41100 of the Revenue and Taxation Code is amended to read:

41100. If the board determines that any amount, penalty, or interest has been paid more than once or has been erroneously or illegally collected or computed, 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 or by whom paid. 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 successors, administrators, or executors.

In the case, however, of a determination by the board that an amount not exceeding fifteen thousand dollars ($15,000) 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 successors, administrators, or executors.

Any overpayment of the surcharge by a service user to a service supplier who is required to collect the surcharge shall be credited or refunded by the state to the service user; provided however, that if the service supplier has paid the amount to the board and establishes to the satisfaction of the board that it has not collected the amount from the service user or has refunded the amount to the service user, the overpayment may be credited or refunded by the state to the service supplier.

SEC. 34. Section 41101 of the Revenue and Taxation Code is amended to read:

41101. No refund shall be approved by the board after three years from the last day of the second month following the close of the quarterly period for which the overpayment was made, or, with respect to determinations made under Article 3 or 4 of Chapter 4 of this part, after six months from the date 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.

SEC. 35. Section 41107 of the Revenue and Taxation Code is amended to read:

41107. If any amount in excess of fifteen thousand dollars ($15,000) has been illegally determined 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 fifteen thousand dollars ($15,000) 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.

SEC. 36. Section 43451 of the Revenue and Taxation Code is amended to read:

43451. If the board determines that any amount of tax, penalty, or interest has been paid more than once or has been erroneously or illegally collected or computed, 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 what was legally due and the person from whom it was collected or by whom paid. If approved by the State Board of Control, the excess amount collected or paid shall be credited on any amounts then due 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.

However, in the case of a determination by the board that an amount not to exceed fifteen thousand dollars ($15,000) was not required to be paid under this part, the board without obtaining the 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.

SEC. 37. Section 43491 of the Revenue and Taxation Code is amended to read:

43491. If any amount in excess of fifteen thousand dollars ($15,000) has been illegally determined, either by the person filing the return or by the board, the board shall 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 fifteen thousand dollars ($15,000) 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.

SEC. 38. Section 44030 of the Revenue and Taxation Code is amended to read:

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.

Gross revenues received from intrastate telecommunication service shall be taxed only to the extent that the amount has not been

previously included in gross revenues subject to the tax under this part.

SEC. 39. Section 44066 of the Revenue and Taxation Code is amended to read:

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 second 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 second calendar month following the quarterly period for which the amount is proposed to be determined.

SEC. 40. Section 44067 is added to the Revenue and Taxation Code, to read:

44067. If before the expiration of the time prescribed in Section 44066 for the mailing of a notice of deficiency determination, the taxpayer has consented in writing to the mailing of the notice after such time, the notice may be mailed at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

SEC. 41. Section 44083 of the Revenue and Taxation Code is amended to read:

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 second calendar month following the quarterly period for which the increase is asserted.

SEC. 42. Section 44091 of the Revenue and Taxation Code is amended to read:

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 44090.

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.

SEC. 43. Section 44100 of the Revenue and Taxation Code is amended to read:

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 fifteen thousand dollars ($15,000) 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.

SEC. 44. Section 44101 of the Revenue and Taxation Code is amended to read:

44101. No refund shall be approved by the board after three years from the last day of the second 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.

SEC. 45. Section 44110 of the Revenue and Taxation Code is amended to read:

44110. If any amount in excess of fifteen thousand dollars ($15,000) 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 fifteen thousand dollars ($15,000) 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.

SEC. 46. It is the intent of the Legislature, if this bill and Assembly Bill No. 461 are both chaptered and become effective on or before January 1, 1986, both bills amend Section 6012.2 of the Revenue and Taxation Code, and this bill is chaptered after Assembly Bill No. 461, that Section 6012.2 of the Revenue and Taxation Code, as amended by Assembly Bill No. 461, shall remain operative, and that Section 6012.2 of the Revenue and Taxation Code, as amended

by Section 2 of this act, shall not become operative.

CHAPTER 592

An act to add Section 11107.5 to the Penal Code, relating to crimes.

[Approved by Governor September 16, 1985. Filed with Secretary of State September 17, 1985]

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

SECTION 1. Section 11107.5 is added to the Penal Code, to read:

11107.5. The Attorney General shall report annually to the Legislature concerning the information pertaining to the sexual abuse of children reported to the Department of Justice pursuant to Sections 11107 and 11169. No confidential information shall be released in the reports submitted to the Legislature.

CHAPTER 593

An act to amend Section 27149 of the Streets and Highways Code, relating to bridge and highway districts.

[Approved by Governor September 16, 1985. Filed with Secretary of State September 17, 1985.]

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

SECTION 1. Section 27149 of the Streets and Highways Code is amended to read:

27149. Each member of the board shall receive the sum of fifty dollars ($50) for attending each meeting of the board and each committee meeting on different days, but no member shall receive this compensation in excess of five thousand dollars ($5,000) in any one year, except the president who shall not receive this compensation in excess of seven thousand five hundred dollars ($7,500) in any one year. Each member of the board shall receive a sum equal to the necessary traveling expenses incurred by him or her in the performance of board duties.

SEC. 2. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act.

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 594

An act to validate the organization, boundaries, acts, proceedings, and bonds of public bodies, as herein defined, and to provide limitations of time within which actions may be commenced in connection therewith, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 16, 1985. Filed with Secretary of State September 17, 1985.]

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

SECTION 1. The following terms shall have the following meanings herein:

(a) The term "public body" means the state and all departments, agencies, boards, commissions, and authorities of the state. "Public body" also means counties, cities and counties, cities, and the following districts, authorities, agencies, boards, commissions, and other entities:

Agencies, boards, commissions, or entities constituted or provided for under or pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code.

Air pollution control districts.
Air quality management districts.
Airport districts.
Assessment districts.
Bridge and highway districts.
Bridge, highway, and transportation districts.
California water district distribution districts.
California water district improvement districts.
California water districts.
Cemetery districts.
Citrus pest control districts.
City general improvement district improvement districts.
City general improvement districts.
City maintenance districts.
Community college districts.
Community development commissions.
Community facilities districts.
Community service district improvement districts.
Community service districts.
Conservancy districts.
Cotton pests abatement districts.
County boards of education.

County drainage districts.
County fire protection districts.
County flood control and water districts.
County free library systems.
County maintenance districts.
County power pumping districts.
County sanitation district improvement districts.
County sanitation districts.
County service area improvement areas.
County service areas.
County sewage and water districts.
County water agencies.
County water authorities.
County water district improvement districts.
County water districts.
County waterworks districts.
Crossing guard maintenance districts.
Department of Water Resources and other agencies acting under and pursuant to Part 3 (commencing with Section 11100) of Division 6 of the Water Code.
Drainage districts.
Fire protection districts.
Flood control and water conservation districts.
Flood control districts.
Garbage and refuse disposal districts.
Garbage disposal districts.
Geologic hazard abatement districts.
Harbor districts.
Harbor improvement districts.
Harbor, recreation, and conservation districts.
Highway districts.
Highway interchange districts.
Highway lighting districts.
Horticultural development districts.
Horticultural protection districts.
Housing authorities.
Industrial development authorities.
Irrigation district distribution districts.
Irrigation district improvement districts.
Irrigation districts.
Joint harbor improvement districts.
Joint highway districts.
Joint municipal sewage disposal districts.
Junior college districts.
Levee districts.
Library districts.
Local health districts.
Local hospital districts.
Metropolitan transit development boards.

Metropolitan water districts.
Mosquito abatement districts.
Mosquito abatement or vector control districts.
Municipal facilities districts.
Municipal improvement assessment districts.
Municipal improvement district improvement districts.
Municipal improvement districts.
Municipal port districts.
Municipal sewer districts.
Municipal utility districts.
Municipal water district improvement districts.
Municipal water districts of any kind.
Parking authorities.
Parking districts.
Park, recreation, and parkway districts.
Permanent road divisions.
Pest abatement districts.
Port districts.
Project areas of redevelopment agencies.
Protection districts.
Public cemetery districts.
Public utility district improvement districts.
Public utility districts.
Rapid transit authorities.
Rapid transit districts.
Reclamation districts.
Recreational harbor districts.
Recreation and park districts.
Recreation, park, and parkway districts.
Redevelopment agencies.
Regional open-space districts.
Regional park and open-space districts.
Regional park districts.
Regional planning districts.
Resort improvement districts.
Resource conservation districts.
River port districts.
Road districts.
Sanitary agencies.
Sanitary districts.
Sanitary districts annexed areas.
School districts of any kind or class.
Separation of grade districts.
Sewer maintenance districts.
Special community services districts.
Special transit service districts.
Special benefit assessment districts of the Southern California Rapid Transit District.
Storm water districts.

Transit districts.
Underground utility districts.
Unified air pollution control districts.
Unified port districts.
Urban renewal agencies.
Vehicle parking districts.
Veterans' memorial districts.
Water agencies.
Water authorities.
Water conservation districts.
Water districts.
Water replenishment districts.
Water storage district improvement districts.
Water storage districts.
Weed abatement districts.
Zones of community service districts.
Zones of county water agencies.
Zones of county water authorities.
Zones of county waterworks districts.
Zones of flood control and water conservation districts.
Zones of flood control districts.

The term "public body" and the plural thereof, as used in this act, shall include only those entities which are specifically enumerated in this section.

(b) The term "bonds" means all instruments evidencing an indebtedness of a public body incurred or to be incurred for any public purpose, leases, installment purchase agreements, or similar agreements in which the obligor is one or more public bodies, certificates of participation evidencing interests in the leases or agreements, and all instruments evidencing the borrowing of money in anticipation of taxes, revenues, or other income of such body, and all instruments payable from revenues or special funds of such public bodies, and all instruments funding or refunding any thereof or any indebtedness.

SEC. 2. All public bodies heretofore organized or existing under, or under color of, any law are hereby declared to have been legally organized and to be legally functioning as such public body. Every such public body shall have all the rights, powers, and privileges, and be subject to all the duties and obligations, of such a public body regularly formed pursuant to law.

SEC. 3. The boundaries of every public body as heretofore established, defined, or recorded, or as heretofore actually shown on maps or plats used by the assessor, are hereby confirmed, validated, and declared legally established.

SEC. 4. All acts and proceedings heretofore taken by any public body or bodies under any law, or under color of any law, for the annexation or inclusion of territory into any such public body or for the annexation of any such public body to any other such public body or for the withdrawal or exclusion of territory from any such public

body or for the consolidation, merger, or dissolution of any public bodies are hereby confirmed, validated, and declared legally effective. This shall include all acts and proceedings of the governing board of any such public body and of any person, public officer, board, or agency heretofore done or taken upon the question of the annexation or inclusion or of the withdrawal or exclusion of such territory or the consolidation, merger, or dissolution of such public bodies.

SEC. 5. All acts and proceedings heretofore taken by or on behalf of any public body under any law, or under color of any law, for the authorization, issuance, sale, or exchange of bonds of any such public body for any public purpose are hereby confirmed, validated, and declared legally effective. This shall include all acts and proceedings of the governing board of such public body and of any person, public officer, board, or agency heretofore done or taken upon the question of the authorization, issuance, sale, or exchange of such bonds.

All bonds of any public body heretofore issued shall be, in the form and manner in which issued and delivered, the legal, valid, and binding obligations of the public body. All bonds of any public body heretofore awarded and sold to a purchaser and hereafter issued and delivered in accordance with the contract of sale and other proceedings for the award and sale shall be the legal, valid, and binding obligations of the public body. All bonds of any public body heretofore authorized to be issued by ordinance, resolution, order, or other action adopted or taken by or on behalf of the public body and hereafter issued and delivered in accordance with such authorization shall be the legal, valid, and binding obligations of the public body. All bonds of any public body heretofore authorized to be issued at an election and hereafter issued and delivered in accordance with such authorization shall be the legal, valid, and binding obligations of the public body. Whenever an election has heretofore been called for the purpose of submitting to the voters of any public body the question of issuing bonds for any public purpose, such bonds, if hereafter authorized by the required vote and in accordance with the proceedings heretofore taken, and issued and delivered in accordance with such authorization, shall be the legal, valid, and binding obligations of the public body.

SEC. 6. (a) The foregoing provisions of this act shall operate to supply such legislative authorization as may be necessary to validate any such acts and proceedings heretofore taken which the Legislature could have supplied or provided for in the law under which such acts or proceedings were taken.

(b) The foregoing provisions of this act shall be limited to the validation of acts and proceedings to the extent to which the same can be effectuated under the State and Federal Constitutions.

(c) The foregoing provisions of this act shall not operate to confirm, validate, or legalize any act, proceeding, or other matter the legality of which is being contested or inquired into in any legal proceeding now pending and undetermined or which is pending and

undetermined during the period of 30 days from and after the effective date of this act, and shall not operate to confirm, validate, or legalize any act, proceeding, or other matter which has heretofore been determined in any legal proceeding to be illegal, void, or ineffective.

(d) This act shall not operate to confirm, validate, or legalize a contract between any district and the United States.

SEC. 7. Any action or proceeding contesting the validity of any action or proceeding heretofore taken under any law, or under color of any law, for the formation, organization, or incorporation of any public body, or for any annexation thereto, exclusion therefrom, or other change of boundaries thereof, or for the consolidation, merger, or dissolution of any public bodies, or for the authorization, issuance, sale, or exchange of bonds thereof upon any ground involving any alleged defect or illegality not effectively validated by the prior provisions of this act and not otherwise barred by any statute of limitations or by laches must be commenced within six months of the effective date of this act; otherwise each and all of such matters shall be held to be valid and in every respect legal and incontestable. This section shall not extend the period in which any action may be brought beyond the period in which it would be barred by any presently existing valid statute of limitations.

SEC. 8. Nothing contained in this act shall be construed to render the creation of any city or district, or any change in the boundaries of any city or district, effective for purposes of assessment or taxation unless the statement, together with the map or plat, required to be filed under Sections 54900 to 54904, inclusive, of the Government Code, is filed within the time and substantially in the manner required by said sections.

SEC. 9. As used in this act, the word "now" means the date this act takes effect; the word "heretofore" means any time prior to such effective date; and the word "hereafter" means any time subsequent to such effective date.

SEC. 10. This act may be cited as the Second Validating Act of 1985.

SEC. 11. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

To validate the organization, boundaries, acts, proceedings, and bonds of public bodies as soon as possible, it is necessary that this act take immediate effect.

CHAPTER 595

An act to amend Sections 1798.3, 1798.9, 1798.10, 1798.14, 1798.15, 1798.17, 1798.19, 1798.20, 1798.23, 1798.24, 1798.25, 1798.28, 1798.34, 1798.38, 1798.46, 1798.53, and 1798.56 of, to amend and renumber Sections 1798.40, 1798.41, 1798.42, and 1798.43 of, to add Sections 1798.40, 1798.77, and 1798.78 to, and to repeal Sections 1798.2, 1798.31, and 1798.65 of, the Civil Code, and to repeal Sections 2 and 5 of Chapter 709 of the Statutes of 1977, relating to information.

[Approved by Governor September 16, 1985 Filed with Secretary of State September 17, 1985.]

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

SECTION 1. Section 1798.2 of the Civil Code is repealed.

SEC. 2. Section 1798.3 of the Civil Code is amended to read:

1798.3. As used in this chapter:

(a) The term "personal information" means any information that is maintained by an agency that identifies or describes an individual, including, but not limited to, his or her name, social security number, physical description, home address, home telephone number, education, financial matters, and medical or employment history. It includes statements made by, or attributed to, the individual.

(b) The term "agency" means every state office, officer, department, division, bureau, board, commission, or other state agency, except that the term agency shall not include:

(1) The California Legislature.

(2) Any agency established under Article VI of the California Constitution.

(3) The State Compensation Insurance Fund, except as to any records which contain personal information about the employees of the State Compensation Insurance Fund.

(4) A local agency, as defined in subdivision (b) of Section 6252 of the Government Code.

(c) The term "disclose" means to disclose, release, transfer, disseminate, or otherwise communicate all or any part of any record orally, in writing, or by electronic or any other means to any person or entity.

(d) The term "individual" means a natural person.

(e) The term "maintain" includes maintain, acquire, use, or disclose.

(f) The term "person" means any natural person, corporation, partnership, firm, or association.

(g) The term "record" means any file or grouping of information about an individual that is maintained by an agency by reference to an identifying particular such as the individual's name, photograph, finger or voice print, or a number or symbol assigned to the individual.

(h) The term "system of records" means one or more records, which pertain to one or more individuals, which is maintained by any agency, from which information is retrieved by the name of an individual or by some identifying number, symbol or other identifying particular assigned to the individual.

(i) The term "governmental entity," except as used in Section 1798.26, means any branch of the federal government or of the local government.

(j) The term "commercial purpose" means any purpose which has financial gain as a major objective. It does not include the gathering or dissemination of newsworthy facts by a publisher or broadcaster.

SEC. 3. Section 1798.9 of the Civil Code is amended to read:

1798.9. Each agency maintaining a system of records containing personal information shall file with the Office of Information Practices the notice specified in Section 1798.10. The notices shall be filed with that office by the agencies on the first day of July of each year. The notices shall be retained by the originating agency and the office until superseded or until after the record system to which the notice applies is abolished. The notices shall serve as the public directory to agency records containing personal information. The Office of Information Practices shall prescribe the form for filing and method of updating the notices required by Section 1798.10 to implement this section.

SEC. 4. Section 1798.10 of the Civil Code is amended to read:

1798.10. Notices required to be filed by Section 1798.9 shall specify each of the following:

(a) The names of the agency and the subdivision within the agency and the title and business address of the agency official responsible for the maintenance of each record system containing personal information.

(b) A brief description of the record system, including a name or title, the categories of individuals and an estimate of the number of individuals, and the types of personal information maintained in the system.

(c) The use or purpose within the agency for the personal information within the system.

(d) Disclosures of the information that will be made pursuant to subdivision (e) or (f) of Section 1798.24.

(e) The legal authority which authorizes the maintenance of personal information in the system.

(f) Retention and disposal policies for the personal information in the system.

(g) The procedures to be followed for an individual to gain access to, and contest the contents of, records containing personal information.

If an agency fails to file such a report, the office promptly shall inform the agency and if the agency fails to comply within 60 days thereafter, the office shall report on the violation in accordance with

subdivision (b) of Section 1798.6. Upon a showing of good cause by an agency, the Office of Information Practices may extend the time for filing notices for a period not to exceed 120 days.

SEC. 5. Section 1798.14 of the Civil Code is amended to read:

1798.14. Each agency shall maintain in its records only personal information which is relevant and necessary to accomplish a purpose of the agency required or authorized by the California Constitution or statute or mandated by the federal government.

SEC. 6. Section 1798.15 of the Civil Code is amended to read:

1798.15. Each agency shall collect personal information to the greatest extent practicable directly from the individual who is the subject of the information rather than from another source.

SEC. 7. Section 1798.17 of the Civil Code is amended to read:

1798.17. Each agency shall provide on or with any form used to collect personal information from individuals the notice specified in this section. When contact with the individual is of a regularly recurring nature, an initial notice followed by a periodic notice of not more than one-year intervals shall satisfy this requirement. This requirement is also satisfied by notification to individuals of the availability of the notice in annual tax-related pamphlets or booklets provided for them. The notice shall include all of the following:

(a) The name of the agency and the division within the agency that is requesting the information.

(b) The title, business address, and telephone number of the agency official who is responsible for the system of records and who shall, upon request, inform an individual regarding the location of his or her records and the categories of any persons who use the information in those records.

(c) The authority, whether granted by statute, regulation, or executive order which authorizes the maintenance of the information.

(d) With respect to each item of information, whether submission of such information is mandatory or voluntary.

(e) The consequences, if any, of not providing all or any part of the requested information.

(f) The principal purpose or purposes within the agency for which the information is to be used.

(g) Any known or foreseeable disclosures which may be made of the information pursuant to subdivision (e) or (f) of Section 1798.24.

(h) The individual's right of access to records containing personal information which are maintained by the agency.

This section does not apply to any enforcement document issued by an employee of a law enforcement agency in the performance of his or her duties wherein the violator is provided an exact copy of the document, or to accident reports whereby the parties of interest may obtain a copy of the report pursuant to Section 20012 of the Vehicle Code.

The notice required by this section does not apply to agency requirements for an individual to provide his or her name,

identifying number, photograph, address, or similar identifying information, if this information is used only for the purpose of identification and communication with the individual by the agency, except that requirements for an individual's social security number shall conform with the provisions of the Federal Privacy Act of 1974 (Public Law 93-579).

SEC. 8. Section 1798.19 of the Civil Code is amended to read:

1798.19. Each agency when it provides by contract for the operation or maintenance of records containing personal information to accomplish an agency function, shall cause, consistent with its authority, the requirements of this chapter to be applied to those records. For purposes of Article 10 (commencing with Section 1798.55), any contractor and any employee of the contractor, if the contract is agreed to on or after July 1, 1978, shall be considered to be an employee of an agency. Local government functions mandated by the state are not deemed agency functions within the meaning of this section.

SEC. 9. Section 1798.20 of the Civil Code is amended to read:

1798.20. Each agency shall establish rules of conduct for persons involved in the design, development, operation, disclosure, or maintenance of records containing personal information and instruct each such person with respect to such rules and the requirements of this chapter, including any other rules and procedures adopted pursuant to this chapter and the remedies and penalties for noncompliance.

SEC. 10. Section 1798.23 of the Civil Code is amended to read:

1798.23. The Department of Justice shall review all personal information in its possession every five years commencing July 1, 1978, to determine whether it should continue to be exempt from access pursuant to Section 1798.40.

SEC. 11. Section 1798.24 of the Civil Code is amended to read:

1798.24. No agency may disclose any personal information in a manner that would link the information disclosed to the individual to whom it pertains unless the disclosure of the information is:

(a) To the individual to whom the information pertains.

(b) With the prior written voluntary consent of the individual to whom the record pertains, but only if such consent has been obtained not more than 30 days before the disclosure, or in the time limit agreed to by the individual in the written consent.

(c) To the duly appointed guardian or conservator of the individual or a person representing the individual provided that it can be proven with reasonable certainty through the possession of agency forms, documents or correspondence that such person is the authorized representative of the individual to whom the information pertains.

(d) To those officers, employees, attorneys, agents, or volunteers of the agency which has custody of the information if the disclosure is relevant and necessary in the ordinary course of the performance of their official duties and is related to the purpose for which the

information was acquired.

(e) To a person, or to another agency where the transfer is necessary for the transferee agency to perform its constitutional or statutory duties, and the use is compatible with a purpose for which the information was collected and the use or transfer is listed in the notice provided pursuant to Section 1798.9 or accounted for in accordance with Section 1798.25.

(f) To a governmental entity when required by state or federal law.

(g) Pursuant to the California Public Records Act, Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code.

(h) To a person who has provided the agency with advance adequate written assurance that the information will be used solely for statistical research or reporting purposes, but only if the information to be disclosed is in a form that will not identify any individual.

(i) Pursuant to a determination by the agency which maintains information that compelling circumstances exist which affect the health or safety of an individual, if upon the disclosure notification is transmitted to the individual to whom the information pertains at his or her last known address. Disclosure shall not be made if it is in conflict with other state or federal law.

(j) To the State Archives of the State of California as a record which has sufficient historical or other value to warrant its continued preservation by the California state government, or for evaluation by the Director of General Services or his or her designee to determine whether the record has further administrative, legal, or fiscal value.

(k) To any person pursuant to a subpoena, court order, or other compulsory legal process if, before the disclosure, the agency reasonably attempts to notify the individual to whom the record pertains, and if the notification is not prohibited by law.

(*l*) To any person pursuant to a search warrant.

(m) Pursuant to Article 3 (commencing with Section 1800) of Chapter 1 of Division 2 of the Vehicle Code.

(n) For the sole purpose of verifying and paying government health care service claims made pursuant to Division 9 (commencing with Section 10000) of the Welfare and Institutions Code.

(o) To a law enforcement agency when required for an investigation of unlawful activity, unless the disclosure is otherwise prohibited by law.

(p) To another person or governmental organization to the extent necessary to obtain information from the person or governmental organization as necessary for an investigation by the agency of a failure to comply with a specific state law which the agency is responsible for enforcing.

(q) To the Office of Information Practices when the transfer is necessary for that office to investigate a complaint it has received regarding an alleged violation of any provision of this chapter or to

perform its mediation functions, provided that the Office of Information Practices has received the written voluntary consent of the individual to whom the information pertains for such a transfer.

(r) To an adopted person and is limited to general background information pertaining to the adopted person's natural parents, provided that the information does not include or reveal the identity of the natural parents.

(s) To a child or a grandchild of an adopted person and disclosure is limited to medically necessary information pertaining to the adopted person's natural parents. However the information, or the process for obtaining the information, shall not include or reveal the identity of the natural parents. The State Department of Social Services shall adopt regulations governing the release of information pursuant to this subdivision by July 1, 1985. The regulations shall require licensed adoption agencies to provide the same services provided by the department as established by this subdivision.

(t) To a committee of the Legislature or to a Member of the Legislature, or his or her staff when authorized in writing by the member, where such member has permission to obtain the information from the individual to whom it pertains or where the member provides reasonable assurance that he or she is acting in behalf of the individual.

(u) To the University of California or a nonprofit educational institution conducting scientific research, provided the request for information includes assurances of the need for personal information, procedures for protecting the confidentiality of the information and assurances that the personal identity of the subject shall not be further disclosed in individually identifiable form.

(v) To an insurer if authorized by Chapter 5 (commencing with Section 10900) of Division 4 of the Vehicle Code.

The provisions of this article shall not be construed to require the disclosure of personal information to the individual to whom the information pertains when that information may otherwise be withheld as set forth in Section 1798.40.

SEC. 12. Section 1798.25 of the Civil Code is amended to read:

1798.25. Each agency shall keep an accurate accounting of the date, nature, and purpose of each disclosure of a record made pursuant to subdivision (i), (k), (*l*), (o), or (p), of Section 1798.24. This accounting shall also be required for disclosures made pursuant to subdivision (e) or (f) of Section 1798.24 unless notice of the type of disclosure has been provided pursuant to Sections 1798.9 and 1798.10. The accounting shall also include the name, title, and business address of the person or agency to whom the disclosure was made.

Routine disclosures of information pertaining to crimes, offenders, and suspected offenders to law enforcement agencies of federal, state, and local government shall be deemed to be disclosures pursuant to subdivision (e) of Section 1798.24 for the purpose of meeting this requirement.

SEC. 13. Section 1798.28 of the Civil Code is amended to read:

1798.28. Each agency, after July 1, 1978, shall inform any person or agency to whom a record containing personal information has been disclosed during the preceding three years of any correction of an error or notation of dispute made pursuant to Sections 1798.35 and 1798.36 if (1) an accounting of the disclosure is required by Section 1798.25 or 1798.26, and the accounting has not been destroyed pursuant to Section 1798.27, or (2) the information provides the name of the person or agency to whom the disclosure was made, or (3) the person who is the subject of the disclosed record provides the name of the person or agency to whom the information was disclosed.

SEC. 14. Section 1798.31 of the Civil Code is repealed.

SEC. 15. Section 1798.34 of the Civil Code is amended to read:

1798.34. (a) Except as otherwise provided in this chapter, each agency shall permit any individual upon request and proper identification to inspect all the personal information in any record containing personal information and maintained by reference to an identifying particular assigned to the individual within 30 days of the agency's receipt of the request for active records, and within 60 days of the agency's receipt of the request for records that are geographically dispersed or which are inactive and in central storage. Failure to respond within these time limits shall be deemed denial. In addition, the individual shall be permitted to inspect any personal information about himself or herself where it is maintained by reference to an identifying particular other than that of the individual, if the agency knows or should know that the information exists. The individual also shall be permitted to inspect the accounting made pursuant to Article 7 (commencing with Section 1798.25).

(b) The agency shall permit the individual, and, upon the individual's request, another person of the individual's own choosing to inspect all the personal information in the record and have an exact copy made of all or any portion thereof within 15 days of the inspection. It may require the individual to furnish a written statement authorizing disclosure of the individual's record to another person of the individual's choosing.

(c) The agency shall present the information in the record in a form reasonably comprehensible to the general public.

(d) Whenever an agency is unable to access a record by reference to name only, or when access by name only would impose an unreasonable administrative burden, it may require the individual to submit such other identifying information as will facilitate access to the record.

(e) When an individual is entitled under this chapter to gain access to the information in a record containing personal information, the information or a true copy thereof shall be made available to the individual at a location near the residence of the individual or by mail, whenever reasonable.

SEC. 16. Section 1798.38 of the Civil Code is amended to read:

1798.38. If information, including letters of recommendation, compiled for the purpose of determining suitability, eligibility, or qualifications for employment, advancement, renewal of appointment or promotion, status as adoptive parents, or for the receipt of state contracts, or for licensing purposes, was received with the promise or, prior to July 1, 1978, with the understanding that the identity of the source of the information would be held in confidence and the source is not in a supervisory position with respect to the individual to whom the record pertains, the agency shall fully inform the individual of all personal information about that individual without identification of the source. This may be done by providing a copy of the text of the material with only such deletions as are necessary to protect the identity of the source or by providing a comprehensive summary of the substance of the material. Whichever method is used, the agency shall insure that full disclosure is made to the subject of any personal information that could reasonably in any way reflect or convey anything detrimental, disparaging, or threatening to an individual's reputation, rights, benefits, privileges, or qualifications, or be used by an agency to make a determination that would affect an individual's rights, benefits, privileges, or qualifications. In institutions of higher education, "supervisory positions" shall not be deemed to include chairpersons of academic departments.

SEC. 17. Section 1798.40 of the Civil Code is amended and renumbered to read:

1798.41. (a) Except as provided in subdivision (c), if the agency determines that information requested pursuant to Section 1798.34 is exempt from access, it shall inform the individual in writing of the agency's finding that disclosure is not required by law.

(b) Except as provided in subdivision (c), each agency shall conduct a review of its determination that particular information is exempt from access pursuant to Section 1798.40, within 30 days from the receipt of a request by an individual directly affected by the determination, and inform the individual in writing of the findings of the review. The review shall be conducted by the head of the agency or an official specifically designated by the head of the agency.

(c) If the agency believes that compliance with subdivision (a) would seriously interfere with attempts to apprehend persons who are wanted for committing a crime or attempts to prevent the commission of a crime or would endanger the life of an informant or other person submitting information contained in the record, it may petition the presiding judge of the superior court of the county in which the record is maintained to issue an ex parte order authorizing the agency to respond to the individual that no record is maintained. All proceedings before the court shall be in camera. If the presiding judge finds that there are reasonable grounds to believe that compliance with subdivision (a) will seriously interfere with

attempts to apprehend persons who are wanted for committing a crime or attempts to prevent the commission of a crime or will endanger the life of an informant or other person submitting information contained in the record, the judge shall issue an order authorizing the agency to respond to the individual that no record is maintained by the agency. The order shall not be issued for longer than 30 days but can be renewed at 30-day intervals. If a request pursuant to this section is received after the expiration of the order, the agency must either respond pursuant to subdivision (a) or seek a new order pursuant to this subdivision.

SEC. 18. Section 1798.40 is added to the Civil Code, to read:

1798.40. This chapter shall not be construed to require an agency to disclose personal information to the individual to whom the information pertains, if the information meets any of the following criteria:

(a) Is compiled for the purpose of identifying individual criminal offenders and alleged offenders and consists only of identifying data and notations of arrests, the nature and disposition of criminal charges, sentencing, confinement, release, and parole and probation status.

(b) Is compiled for the purpose of a criminal investigation of suspected criminal activities, including reports of informants and investigators, and associated with an identifiable individual.

(c) Is contained in any record which could identify an individual and which is compiled at any stage of the process of enforcement of the criminal laws, from the arrest or indictment stage through release from supervision and including the process of extradition or the exercise of executive clemency.

(d) Is maintained for the purpose of an investigation of an individual's fitness for licensure or public employment, or of a grievance or complaint, or a suspected civil offense, so long as the information is withheld only so as not to compromise the investigation, or a related investigation. The identities of individuals who provided information for the investigation may be withheld pursuant to Section 1798.38.

(e) Would compromise the objectivity or fairness of a competitive examination for appointment or promotion in public service, or to determine fitness for licensure, or to determine scholastic aptitude.

(f) Pertains to the physical or psychological condition of the individual, if the agency determines that disclosure would be detrimental to the individual. The information shall, upon the individual's written authorization, be disclosed to a licensed medical practitioner or psychologist designated by the individual.

(g) Relates to the settlement of claims for work related illnesses or injuries and is maintained exclusively by the State Compensation Insurance Fund.

(h) Is required by statute to be withheld from the individual to whom it pertains.

This section shall not be construed to deny an individual access to

information relating to him or her if access is allowed by another statute or decisional law of this state.

SEC. 19. Section 1798.41 of the Civil Code is amended and renumbered to read:

1798.42. In disclosing information contained in a record to an individual, an agency shall not disclose any personal information relating to another individual which may be contained in the record. To comply with this section, an agency shall, in disclosing information, delete from disclosure such information as may be necessary. This section shall not be construed to authorize withholding the identities of sources except as provided in Sections 1798.38 and 1798.40.

SEC. 20. Section 1798.42 of the Civil Code is amended and renumbered to read:

1798.43. In disclosing information contained in a record to an individual, an agency need not disclose any information pertaining to that individual which is exempt under Section 1798.40. To comply with this section, an agency may, in disclosing personal information contained in a record, delete from the disclosure any exempt information.

SEC. 21. Section 1798.43 of the Civil Code is amended and renumbered to read:

1798.44. This article applies to the rights of an individual to whom personal information pertains and not to the authority or right of any other person, agency, other state governmental entity, or governmental entity to obtain this information.

SEC. 22. Section 1798.46 of the Civil Code is amended to read:

1798.46. In any suit brought under the provisions of subdivision (a) of Section 1798.45:

(a) The court may enjoin the agency from withholding the records and order the production to the complainant of any agency records improperly withheld from the complainant. In such a suit the court shall determine the matter de novo, and may examine the contents of any agency records in camera to determine whether the records or any portion thereof may be withheld as being exempt from the individual's right of access and the burden is on the agency to sustain its action.

(b) The court shall assess against the agency reasonable attorney's fees and other litigation costs reasonably incurred in any suit under this section in which the complainant has prevailed. A party may be considered to have prevailed even though he or she does not prevail on all issues or against all parties.

SEC. 23. Section 1798.53 of the Civil Code is amended to read:

1798.53. Any person, other than an employee of the state or of a local government agency acting solely in his or her official capacity, who intentionally discloses information, not otherwise public, which they know or should reasonably know was obtained from personal information maintained by a state agency or from "records" within a "system of records" (as these terms are defined in the Federal

Privacy Act of 1974 (P. L. 93-579; 5 U.S.C. 552a)) maintained by a federal government agency, shall be subject to a civil action, for invasion of privacy, by the individual to whom the information pertains.

In any successful action brought under this section, the complainant, in addition to any special or general damages awarded, shall be awarded a minimum of two thousand five hundred dollars ($2,500) in exemplary damages as well as attorney's fees and other litigation costs reasonably incurred in the suit.

The right, remedy, and cause of action set forth in this section shall be nonexclusive and is in addition to all other rights, remedies, and causes of action for invasion of privacy, inherent in Section 1 of Article I of the California Constitution.

SEC. 24. Section 1798.56 of the Civil Code is amended to read:

1798.56. Any person who willfully requests or obtains any record containing personal information from an agency under false pretenses shall be guilty of a misdemeanor and fined not more than five thousand dollars ($5,000), or imprisoned not more than one year, or both.

SEC. 25. Section 1798.65 of the Civil Code is repealed.

SEC. 26. Section 1798.77 is added to the Civil Code, to read:

1798.77. Each agency shall ensure that no record containing personal information shall be modified, transferred, or destroyed to avoid compliance with any of the provisions of this chapter. In the event that an agency fails to comply with the provisions of this section, an individual may bring a civil action and seek the appropriate remedies and damages in accordance with the provisions of Article 9 (commencing with Section 1798.45).

An agency shall not remove or destroy personal information about an individual who has requested access to the information before allowing the individual access to the record containing the information.

SEC. 27. Section 1798.78 is added to the Civil Code, to read:

1798.78. This chapter shall not be deemed to supersede the provisions of Chapter 1299 of the Statutes of 1976.

SEC. 28. Section 2 of Chapter 709 of the Statutes of 1977 is repealed.

SEC. 29. Section 5 of Chapter 709 of the Statutes of 1977 is repealed.

CHAPTER 596

An act to add Chapter 7.5 (commencing with Section 1361) to Part 1 of Division 1 of the Public Utilities Code, relating to public utility facilities.

[Approved by Governor September 16, 1985 Filed with Secretary of State September 17, 1985]

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

SECTION 1. Chapter 7.5 (commencing with Section 1361) is added to Part 1 of Division 1 of the Public Utilities Code, to read:

CHAPTER 7.5. DECOMMISSIONING OF NUCLEAR FACILITIES

1361. This chapter shall be known and may be cited as the Nuclear Facility Decommissioning Act of 1985.

1362. The Legislature hereby finds and declares all of the following:

(a) The citizens of California should be protected from exposure to radiation from nuclear facilities.

(b) It is in the best interest of all citizens of California that the costs of electricity generated by nuclear facilities be fairly distributed among present and future generations of California ratepayers so that ratepayers are charged only for costs that are determined by the commission to be reasonably and prudently incurred.

(c) The costs of electricity generated by nuclear facilities, including the cost of their decontamination and decommissioning, should be reduced to the lowest level consistent with public health and safety.

(d) The ultimate costs of the decommissioning of nuclear facilities are of significant magnitude, and introduce an element of financial risk for both ratepayers and investors unless prudent provision is made for defraying those costs.

(e) In order to reduce both risk and ultimate cost for all of its citizens, the State of California should establish a comprehensive framework for timely payment of the costs of decommissioning, and provide for allocation of risks and costs among the respective interests.

(f) The principal considerations in establishing a state policy respecting the economic aspects of decommissioning are as follows:

(1) Assuring that the funds required for decommissioning are available at the time and in the amount required for protection of the public.

(2) Minimizing the cost to ratepayers of an acceptable level of assurance.

(3) Structuring payments for decommissioning so that ratepayers and investors are treated equitably over time so that ratepayers are

charged only for costs that are determined by the commission to be reasonably and prudently incurred.

1363. It is the intent of the Legislature in enacting this chapter to protect the ratepayers of California, both present and future, from risk of unreasonable costs associated with ownership and operation of nuclear powerplants. To that end, the commission shall develop regulations and guidelines that promote realism in estimating cost, provide periodic review procedures that create maximum incentives for accurate cost estimations, and provide for decommissioning cost controls.

1364. Unless the context otherwise requires, the definitions in this section shall govern construction of this chapter:

(a) "Decommissioning" means to remove nuclear facilities safely from service and to reduce residual radioactivity to a level that permits release of the property for unrestricted use and termination of license, or as otherwise defined by the Nuclear Regulatory Commission or its successor. Decommissioning also includes other activities and costs, if any, which may be included in Internal Revenue Service regulations implementing Section 468A of the United States Internal Revenue Code.

(b) "Nuclear facilities" means the site, building and contents, and equipment associated with any activity licensed by the Nuclear Regulatory Commission, or as may be otherwise defined by the Nuclear Regulatory Commission or its successor.

1365. (a) Each public utility owning, in whole or in part, or operating nuclear facilities, located in California or elsewhere, shall establish an externally managed, segregated fund for the purposes of this chapter. In addition, each public utility may establish other funds, as appropriate, for payment of decommissioning costs of nuclear facilities.

(b) The externally managed, segregated fund established pursuant to subdivision (a) shall be a fund which qualifies for a tax deduction pursuant to Section 468A of the United States Internal Revenue Code, and applicable regulations of the Internal Revenue Service adopted pursuant thereto, if that tax treatment is determined by the commission to be in the best long-term interests of the ratepayers of the public utility.

(c) The commission shall authorize each public utility to collect sufficient revenues in rates to make the maximum contributions to the fund established pursuant to Section 468A of the United States Internal Revenue Code and applicable regulations, that are deductible for federal and state income tax purposes, and to otherwise recover the revenue requirement associated with reasonable and prudent decommissioning costs of the nuclear facilities for purposes of making contributions into other funds established pursuant to subdivision (a).

1366. (a) Each public utility owning, in whole or in part, or operating a nuclear facility, located in California or elsewhere, shall provide a decommissioning cost estimate to the commission for all

nuclear facilities which shall include all of the following:

(1) An estimate of costs of decommissioning.

(2) A description of changes in regulation, technology, and economics affecting the estimate of costs.

(3) A description of additions and deletions to nuclear facilities.

(4) Upon request of the commission, other information required by the Nuclear Regulatory Commission regarding decommissioning costs.

(b) The decommissioning cost estimate study shall be periodically revised in accordance with procedures adopted by the commission pursuant to Section 1367.

1367. The commission shall review, in conjunction with each general rate case proceeding of each public utility, the decommissioning cost estimate of each public utility in order to ensure that the estimate takes account of the changes in the technology and regulation of decommissioning, the operating experience of each nuclear facility, and the changes in the general economy. The review shall specifically include all cost estimates, the basis for the cost estimates, and all assumptions about the remaining useful life of the nuclear facilities.

1368. The expenses associated with decommissioning of nuclear facilities shall be paid from the funds established pursuant to Section 1365. In the event that the money in the funds are insufficient for payment of all decommissioning costs, the commission shall determine whether the costs incurred in excess of the money in the funds are reasonable in amount and prudently incurred. If the commission determines that the excess costs are reasonable in amount and prudently incurred, the commission shall authorize these costs to be charged to ratepayers.

1369. The commission shall, for ratemaking purposes, review and approve the estimated service life and estimated retirement date of all nuclear facilities.

SEC. 2. This act shall become operative only if Assembly Bill 66 of the 1985–86 Regular Session is enacted and becomes effective.

SEC. 3. No reimbursement is required by this act pursuant to 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 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 597

An act to amend Section 10334 of the Public Contract Code, relating to service revolvers.

[Approved by Governor September 16, 1985. Filed with Secretary of State September 17, 1985]

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

SECTION 1. Section 10334 of the Public Contract Code is amended to read:

10334. (a) 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.

(b) Notwithstanding subdivision (a), any peace officer described in subdivisions (a), (b), (g), (h), or (i) of Section 830.2 of the Penal Code, employed by the State of California for a period of more than 120 months who has been duly retired through either a service or disability retirement not related to a mental or emotional disorder and who has been granted the legal right to carry a concealable firearm pursuant to subdivision (a) of Section 12027 of the Penal Code may be authorized by the person's department head to purchase his or her state-issued handgun, provided that the handgun was provided to the officer for a minimum of 120 months prior to retirement. The cost of the handgun shall be at the full replacement cost, at the time of the officer's retirement, plus a charge for the cost of handling.

CHAPTER 598

An act relating to health care providers.

[Approved by Governor September 16, 1985 Filed with Secretary of State September 17, 1985]

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

SECTION 1. (a) All licensing agencies within the Department of Consumer Affairs having responsibility for the licensing and regulation of health care providers, which impose requirements for continuing education as a condition of license renewal, shall prepare a plan and proposal for partial exemption or credit toward continuing education requirements for the completion of course work as follows:

(1) A comprehensive course on preventive health services and

health promotion or risk reduction methodologies for the consumer commensurate with their scope of licensure.

(2) A comprehensive course on health care cost containment or health care cost management.

(b) The Department of Consumer Affairs shall assist with the coordination and development of these plans and proposals, which shall be submitted to the Governor and the Legislature on or before July 1, 1986.

(c) This section shall be operative until December 31, 1986, and on that date is repealed.

CHAPTER 599

An act to repeal and add Chapter 5 (commencing with Section 4801) of Division 2 of the Public Utilities Code, relating to motor transportation brokers, and making an appropriation therefor.

[Approved by Governor September 16, 1985 Filed with Secretary of State September 17, 1985]

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

SECTION 1. Chapter 5 (commencing with Section 4801) of Division 2 of the Public Utilities Code is repealed.

SEC. 2. Chapter 5 (commencing with Section 4801) is added to Division 2 of the Public Utilities Code, to read:

CHAPTER 5. MOTOR TRANSPORTATION BROKERS

Article 1. General Provisions and Definitions

4801. This chapter shall be known and may be cited as the Motor Transportation Brokers' Act.

4802. The Legislature finds and declares that the business of acting as an intermediary between the public and motor carriers of property operating over the public highways of the state is affected with a public interest and that it is the purpose of this chapter to secure for the public the full benefit of the services of these intermediaries, to promote competitive and efficient transportation services, and to protect the public from unfair or deceptive practices by these intermediaries.

4803. This chapter does not regulate commerce between this and any other state or with any foreign nation except to the extent permitted under the Constitution and laws of the United States.

4804. As used in this chapter, "brokerage" or "brokerage service" means the arranging for the transportation of property by a motor carrier over the highways of this state for or on behalf of a shipper, a consignor, or a consignee.

4805. As used in this chapter, "commission" means the Public Utilities Commission.

4806. As used in this chapter, "corporation" includes a corporation, a company, an association, and a joint stock association.

4807. As used in this chapter, "motor carrier" includes any person or corporation, or its lessee, or trustee or receiver appointed by any court, transporting or offering to transport property for compensation over the highways of this state. "Motor carrier" does not include a passenger stage corporation engaged in transporting baggage or express incidental to the transportation of passengers or a cement carrier, cement contract carrier, dump truck carrier, or household goods carrier.

4808. As used in this chapter, "motor transportation broker" includes any person or corporation, or its lessee, or trustee or receiver appointed by any court, arranging or offering to arrange for the transportation of property for compensation by any motor carrier over the highways of this state.

A motor carrier or any employee or bona fide agent of a motor carrier is not a motor transportation broker by reason of arranging or offering to arrange for the transportation of any shipment which it is authorized to transport and has contracted to transport. As used in this paragraph, "bona fide agent" is a person or corporation which is a part of the normal organization of a motor carrier and performs duties under the carrier's directions pursuant to a preexisting agreement providing for a continuing relationship which precludes the exercise of discretion by the agent in allocating traffic between the motor carrier and others.

4809 As used in this chapter, "nonbrokerage service" means all service performed by a motor transportation broker on behalf of a motor carrier, shipper, consignor, or consignee other than a brokerage service.

4810. As used in this chapter, "person" includes an individual, a firm, or a partnership.

Article 2. Licenses

4821. No person or corporation shall act in any manner as a motor transportation broker without being licensed therefor.

4822. (a) An application for a motor transportation broker's license shall be made in writing to the commission and shall be in a form and shall contain the information the commission requires.

(b) A fee of five hundred dollars ($500) shall accompany every application for a motor transportation broker's license. The commission shall deposit all fees received under this chapter at least once each month in the Treasury to the credit of the Transportation Rate Fund.

4823. The commission shall issue a motor transportation broker's license to an applicant that it finds and determines is fit, willing, and able to act as a broker for transportation as authorized by the license

and to comply with this chapter and the rules and orders of the commission.

4824. The commission shall require that every motor transportation broker file with the commission a bond, policy of insurance, or other security in an amount and form approved by the commission guaranteeing that all money received for the payment of transportation charges is paid to the motor carrier providing the transportation. In addition to any other penalty, the commission shall suspend or revoke the license of any motor transportation broker violating this section.

4825. (a) A motor transportation broker's license permits the broker to do all of the following:

(1) Offer its services to motor carriers, consignors, consignees, and shippers without limitation to specified carriers, consignors, consignees, or shippers.

(2) Issue invoices for its services to motor carriers, consignors, consignees, and shippers.

(3) Receive compensation from more than one party to the same transportation transaction.

(b) Notwithstanding paragraph (3) of subdivision (a), a motor transportation broker shall collect and transmit to the motor carrier all applicable charges for every shipment but may charge and collect in addition thereto an agreed-upon commission from the motor carrier or agreed-upon compensation, or both a commission and compensation, from the consignor, consignee, or shipper.

4826. Every motor transportation broker shall prominently display in its place of business its license and any other matters that the commission requires.

4827. No action against the surety on a motor transportation broker's bond may be brought later than one year after the accrual of the cause of action thereon.

4828. A motor transportation broker's license is not transferable except upon approval of the commission after a finding that the applicant for transfer is fit, willing, and able to perform the duties of a motor transportation broker and that the transfer is not contrary to the public interest.

4829. A motor transportation broker which is a corporation shall inform the commission of any change in control of the corporation. The commission may require the corporation to submit a new application for a motor transportation broker's license showing to the satisfaction of the commission that the change in control is not contrary to the public interest or, if contrary to the public interest, the commission may deny the application and revoke the license.

Article 3. Regulation

4841. The commission may regulate the operations, practices, and contracts of motor transportation brokers, may prescribe rules applicable to the operations of motor transportation brokers, but

shall not regulate the rates and charges of motor transportation brokers.

4842. A person or corporation may hold a certificate or permit as a motor carrier together with a motor transportation broker's license, but may not act both as a motor carrier and as a motor transportation broker with respect to the same transportation transaction. Every motor carrier holding a motor transportation broker's license is subject to this chapter with respect to all operations under that license.

4843. Every motor transportation broker shall keep a record of each transaction which contains all of the following:

(a) The name and address of the consignor.

(b) The name, address, and commission certificate or permit number of the originating motor carrier.

(c) The bill of lading or freight bill number.

(d) The amount of compensation paid to the motor transportation broker for brokerage service performed and the name of the payer.

(e) A description of any nonbrokerage service performed, the amount of compensation paid to the motor transportation broker, and the name of the payer.

(f) The amount of any transportation charges collected by the motor transportation broker and the date of transmittal of these charges to the motor carrier.

4844. (a) The commission or its authorized employees, representatives, or inspectors, shall, at all times, have access to all accounts, records, and memoranda, including all documents, books, papers, and correspondence kept, or required to be kept, by a motor transportation broker, and may photocopy or electrostatically or photostatically reproduce, at the commission's expense, any of these accounts, records, memoranda, documents, books, papers, and correspondence at either the premises of the motor transportation broker or the offices of the commission. A motor transportation broker may determine whether the copying or reproduction is done at its premises or at the offices of the commission, and if copying or reproduction expenses are incurred by the motor transportation broker. The commission shall, upon request, reimburse the motor transportation broker for those expenses.

(b) For purposes of maintaining its records, a motor transportation broker may keep master lists by consignors and by each motor carrier's certificate or permit number in lieu of a separate record for each transaction.

4845. (a) Every motor transportation broker shall retain its records at its principal place of business within this state for at least three years.

(b) The employees, representatives, and inspectors of the commission may, under its order or direction, inspect and examine any lands, buildings, equipment, accounts, books, records, and memoranda, including all documents, papers, and correspondence, kept or required to be kept, by a motor transportation broker.

4846. A motor transportation broker and a motor carrier which are parties to a transaction may each inspect the records of the other relating to that transaction at reasonable times.

4847. A motor transportation broker which engages in any other business shall maintain records which segregate the transactions of that other business from its brokerage service. Expenses or other matters that are common to both businesses shall be allocated on an equitable basis, as the commission may prescribe.

4848. Any person or corporation which does one or more acts constituting any of the following is a motor transportation broker subject to this chapter:

(a) Offering or advertising to provide, for compensation, transportation service by motor carrier over the highways of this state.

(b) Operating or managing any place of business where transportation service by motor carrier is offered for compensation.

(c) Aiding, abetting, or advising any person or corporation in any of the activities specified in subdivision (a) or (b).

4849. Whenever any person is arrested for any violation of this chapter, the arresting officer shall confiscate for use in evidence any materials used or useful for the purpose of advertising the person arrested as a motor transportation broker.

4850. (a) A motor transportation broker shall charge or receive no compensation from any motor carrier if the broker owns or has any material beneficial interest in the shipment transported by the motor carrier or if there is any common ownership or means of control by the motor transportation broker over the motor carrier.

(b) The commission may determine any question of fact arising under this section.

4851. A motor transportation broker shall not give or offer to give any money or thing of value to a shipper, consignor, or consignee, or any officer or employee thereof, as an inducement for any brokerage service except inexpensive advertising items furnished for promotional purposes.

4852. A motor transportation broker shall advertise or perform no brokerage service under any name other than that for which its license is issued.

4853. No motor transportation broker shall, directly or indirectly, advertise or otherwise represent its operations to be those of a carrier. A motor transportation broker shall, in any advertising of its brokerage service, indicate the status of its operation as a brokerage service.

4854. No motor transportation broker shall furnish, under lease or otherwise, any motor vehicle for the purpose of transporting any shipment with respect to which it performs any brokerage service.

4855. Whenever a motor transportation broker acts on behalf of any person or corporation subject to any requirement of law or rule or order of the commission respecting freight invoices, the transmittal of bills or payments, or the extension of credit, the motor

transportation broker is likewise subject to the same requirement.

Article 4. Violations

4870. (a) The commission may suspend or revoke any license issued pursuant to this chapter if it makes any of the following determinations:

(1) The licensee is not a fit and proper person to hold the license.

(2) The licensee, in acting as a motor transportation broker, has engaged in false advertising and false representation in violation of the laws of this state, or any ordinance or regulation of a local agency.

(3) The licensee has sold, offered for sale, or negotiated for sale, transportation by any carrier, that, under the laws of this state, is conducted in an unauthorized manner or a manner contrary to the public interest, or that sale, offer, negotiation, or transportation is in violation of this chapter or the general orders or rules of the commission issued pursuant to this chapter.

(b) As an alternative to the cancellation, revocation, or suspension of a license, the commission may impose upon the holder of the license a civil penalty of not more than five thousand dollars ($5,000) for a first offense and not more than ten thousand dollars ($10,000) for any second or succeeding offense. All penalties collected shall be deposited at least once each month in the State Treasury to the credit of the Transportation Rate Fund.

4871. The commission may file a complaint for violation of this chapter before any court of competent jurisdiction, and the commission and its counsel, or other official representatives, may assist in presenting facts at the trial. The district attorney of a county in which a violation of this chapter occurs shall prosecute the violations either with or without the request of the commission.

4872. This chapter does not release any right of the state, the commission, or any person or corporation to any fine, penalty, or forfeiture which may arise under any other law. All penalties provided in this chapter are cumulative, and any action for one or more penalties does not prevent recovery of any other penalty or forfeiture nor prevent the commission's exercise of its power to punish for contempt.

4873. Any corporation or person charged with acting as a motor transportation broker without a license has the burden of proving either that the person or corporation is licensed or that the carrier for which the person or corporation was acting is not a motor carrier within the meaning of this chapter.

4874. Any person or corporation convicted of acting as a motor transportation broker without a license is punishable as follows:

(a) If a person, for a first offense, by a fine of not to exceed one thousand dollars ($1,000), by imprisonment in the county jail for not to exceed six months, or by both; or for a subsequent offense, by a fine of not to exceed two thousand dollars ($2,000), by imprisonment in the county jail or state prison for not to exceed one year, or by

both.

(b) If a corporation, for a first offense, by a fine of not to exceed five thousand dollars ($5,000); or for a subsequent offense, by a fine of not to exceed ten thousand dollars ($10,000).

4875. Any motor transportation broker convicted of violating any provision of this chapter is punishable as follows:

(a) If a person, by a fine of not to exceed one thousand dollars ($1,000), by imprisonment in the county jail for not to exceed six months, or by both; and by suspension or revocation of license.

(b) If a corporation, by a fine of not to exceed five thousand dollars ($5,000) and by suspension or revocation of license.

SEC. 3. No reimbursement is required by this act pursuant to 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 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 600

An act to amend Sections 1150, 7506.5, 12481, and 19849.7 of the Government Code, and to amend Section 11006.2 of the Welfare and Institutions Code, relating to electronic fund transfer.

[Approved by Governor September 16, 1985 Filed with Secretary of State September 17, 1985]

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

SECTION 1. Section 1150 of the Government Code is amended to read:

1150. As used in this article:

(a) "State employee" means all persons who receive wages for services through the uniform payroll system established and administered by the Controller under Section 12470.

(b) "Public agency" includes counties, cities, municipal corporations, political subdivisions, public districts, and other public agencies of the state.

(c) "Employee organization" means an organization which represents employees of the state or the California State University in their employer-employee relations, and which is registered with the Department of Personnel Administration or the Trustees of the California State University, or which has been recognized or certified by the Public Employment Relations Board.

(d) "Bona fide association" means an organization of employees and former employees of an agency of the state and the California State University, and which does not have as one of its purposes representing these employees in their employer-employee relations.

(e) "Deduction" does not include direct deposit by electronic fund transfer, as authorized by Sections 7506 and 12480.

SEC. 2. Section 7506.5 of the Government Code is amended to read:

7506.5. The Controller shall make an agreement with one or more financial institutions participating in the Automated Clearing House pursuant to the local rules, and shall establish a program, for the direct deposit by electronic fund transfer of the benefits, after any withholding required by law and authorized deductions, of any person entitled to the receipt of benefits from any state retirement system who authorizes the direct deposit thereof by electronic fund transfer into the person's account at the financial institution of his or her choice.

SEC. 3. Section 12481 of the Government Code is amended to read:

12481. (a) Notwithstanding any other provision of law, the Controller shall make an agreement with one or more financial institutions participating in the Automated Clearing House pursuant to the local rules, and shall establish a program, for direct deposit by electronic fund transfer of the salary or wages, after any withholding required by law and authorized deductions, of officers and employees of the state who authorize the direct deposit thereof by electronic fund transfer into the person's account at the financial institution of his or her choice.

(b) The direct deposit of state payroll pursuant to this section shall be known as the State of California Sure Pay Plan.

SEC. 4 Section 19849.7 of the Government Code is amended to read.

19849.7. Each state agency shall at the time of each payment of salary or wages, whether by direct deposit by electronic fund transfer pursuant to Sections 12480 and 12481 or otherwise, furnish each employee an itemized statement in writing showing all deductions made from his or her salary or wages as required by Section 226 of the Labor Code.

SEC. 5. Section 11006.2 of the Welfare and Institutions Code is amended to read:

11006 2. (a) The department may provide for the delivery of public assistance payments at any time during the month consistent with federal law relating to recipient monthly reporting requirements.

(b) The department shall cooperate with county treasurers and private financial service providers, including depository institutions, licensed check sellers, data processing service vendors, and retail merchants, in developing and implementing an electronically based system for delivering public assistance payments to those recipients who do not have individual deposit accounts with financial institutions.

(c) Notwithstanding any other provision of law, any person entitled to the receipt of public assistance payments may authorize

payment to be directly deposited by electronic fund transfer into the person's account at the financial institution of his or her choice under a program for direct deposit by electronic transfer established by the county treasurer. The direct deposit shall discharge the department's obligation with respect to the payment.

Each county treasurer shall make an agreement with one or more financial institutions participating in the Automated Clearing House pursuant to the local rules, and shall establish a program for the direct deposit by electronic fund transfer of payments to any person entitled to the receipt of public assistance benefits who authorizes the direct deposit thereof into the person's account at the financial institution of his or her choice.

This subdivision shall apply only in a county in which the board of supervisors has adopted a resolution to implement an electronically based system for delivering public assistance payments.

SEC. 6. This act shall become operative on January 1, 1987.

CHAPTER 601

An act to amend Sections 31452.5 and 31680.2 of the Government Code, relating to the County Employees Retirement Law of 1937.

[Approved by Governor September 16, 1985 Filed with Secretary of State September 17, 1985]

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

SECTION 1. Section 31452.5 of the Government Code is amended to read:

31452.5. The board may comply with and give effect to a revocable written authorization signed by a retired member or beneficiary of a retired member entitled to a retirement allowance or benefit under this chapter, authorizing the treasurer to deduct a specified amount from the retirement allowance or benefit payable to any retired member or beneficiary of a retired member for the purpose of paying premiums on any policy or certificate of group life insurance or group disability insurance issued by an admitted insurer, or for any prepaid group medical or hospital service plan, or both, or for any dental plan, approved by the board, for the benefit of the retired member or his dependents, or for the payment of premiums on national service life insurance or United States government converted insurance, or for the purchase of shares in or the payment of money to any regularly chartered credit union, or for charitable organizations as approved by both the board of retirement and the board of supervisors, or for the purchase of United States Savings Bonds, or for the payment of personal income taxes to the government of the United States or of the State of California, and each month shall draw his order in favor of the insurer, institution

or credit union or government named in the written authorization for an amount equal to the deductions so authorized and made during the month. The board may charge a reasonable fee for the making of the deductions and payments and the fees shall be deposited in the county fund from which salaries are paid.

SEC. 2. Section 31680.2 of the Government Code is amended to read:

31680.2. Any person who has retired may be employed in a position requiring special skills or knowledge, as determined by the county or district employing him or her, for not to exceed 90 working days or 720 hours, whichever is greater, in any one fiscal year and may be paid for that employment. That employment shall not operate to reinstate the person as a member of this system or to terminate or suspend his or her retirement allowance, and no deductions shall be made from his or her salary as contributions to this system.

CHAPTER 602

An act to amend Section 39307 of the Education Code, relating to school districts.

[Approved by Governor September 16, 1985. Filed with Secretary of State September 17, 1985.]

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

SECTION 1. Section 39307 of the Education Code is amended to read:

39307. The governing board of a school district shall call and hold an election, pursuant to Section 39308 or 39311, before or after entering a lease or agreement, as the case may be, except that if the lease or agreement does not effect an increase in the existing applicable maximum tax rate of the district, the election requirements of this section shall not apply.

CHAPTER 603

An act to amend Section 7521 of, and to add Section 7521.5 to, the Business and Professions Code, relating to private investigators.

[Approved by Governor September 16, 1985 Filed with Secretary of State September 17, 1985]

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

SECTION 1. Section 7521 of the Business and Professions Code is amended to read:

7521. (a) A private investigator within the meaning of this chapter is a person, other than an insurance adjuster subject to the provisions of Chapter 1 (commencing with Section 14000) of Division 5 of the Insurance Code, who, for any consideration whatsoever engages in business or accepts employment to furnish or agrees to furnish any person to protect persons pursuant to Section 7521.5, or 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 these 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.

SEC. 2. Section 7521.5 is added to the Business and Professions Code, to read:

7521.5. (a) A private investigator may provide services to protect a person, but not property, which is incidental to an investigation for which the private investigator has been previously hired to perform

(b) If the private investigator provides those services, he or she shall comply with the requirements of Article 3.2 (commencing with Section 7544), as those provisions relate to the carrying of firearms and the receipt of a valid firearms qualification card from the bureau.

(c) If the private investigator provides those services, he or she shall comply with the requirements of Sections 7549, 7549.1, and 7549.2 as those provisions relate to the maintenance of an insurance policy.

(d) If the private investigator provides those services, he or she shall be subject to the jurisdiction of the private security services advisory board and disciplinary review committee only with respect to violation of the law or regulations relating to firearms.

(e) If a person acts for, or on behalf of a private investigator in providing those services, that person shall be an employee of the private investigator, as defined by Section 7512.11, and there shall be an employer-employee relationship, as defined in Section 7512.12, and that person shall comply with the requirements of this section with the exception of the maintenance of an insurance policy.

CHAPTER 604

An act to amend Section 74807.5 of the Government Code, relating to municipal courts.

[Approved by Governor September 16, 1985 Filed with Secretary of State September 17, 1985]

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

SECTION 1. Section 74807.5 of the Government Code is amended to read:

74807.5. There shall be one commissioner. The commissioner shall exercise, within the jurisdiction of the court, all the powers and perform all the duties authorized by law. The commissioner shall receive a salary equal to 70, 75, or 80 percent of the salary of a judge of the municipal court and shall be entitled to all employee benefits that are provided for or made applicable to the other employees of the court. The court shall determine the level of salary to be received by a court commissioner, making adjustments on the three levels in accordance with the qualifications, performance, and other factors deemed relevant by the court.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act.

CHAPTER 605

An act relating to the Youth Authority, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 16, 1985 Filed with Secretary of State September 17, 1985]

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

SECTION 1. On the effective date of this act the unencumbered balance of the appropriation provided in Schedule (3) of Item 5460-301-036 of the Budget Act of 1984 shall revert to the Unappropriated Surplus of the Special Account for Capital Outlay in the General Fund.

SEC. 2. There is hereby appropriated from the Special Account for Capital Outlay in the General Fund to the Department of the Youth Authority the sum of one million eight hundred forty-six thousand dollars ($1,846,000) to complete the working drawings for, and the construction of, a vocational education shop at the Preston School of Industry.

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

In order that state funding may be provided for working drawings for, and the construction of, vocational education shops at the

Preston School of Industry that are urgently needed to accommodate the increasing population of the Youth Authority, it is necessary that this act be effective at the earliest date possible.

CHAPTER 606

An act to amend Section 9312 of the Commercial Code, relating to commercial transactions.

[Approved by Governor September 16, 1985. Filed with Secretary of State September 17, 1985]

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

SECTION 1. Section 9312 of the Commercial Code is amended to read:

9312. (1) The rules of priority stated in other sections of this chapter and in the following sections shall govern where applicable: Section 4208 with respect to the security interest of collecting banks in items being collected, accompanying documents and proceeds; Section 9103 on security interests related to other jurisdictions; Section 9114 on consignments.

(3) A perfected purchase money security interest in inventory has priority over a conflicting security interest in the same inventory and also has priority in identifiable cash proceeds received on or before the delivery of the inventory to a buyer if all of the following occur:

(a) The purchase money security interest is perfected at the time the debtor receives possession of the inventory.

(b) The purchase money secured party gives notification in writing to the holder of the conflicting security interest if the holder had filed a financing statement covering the same types of inventory (i) before the date of the filing made by the purchase money secured party, or (ii) before the beginning of the 21-day period where the purchase money security interest is temporarily perfected without filing or possession (subdivision (5) of Section 9304).

(c) The holder of the conflicting security interest receives the notification within five years before the debtor receives possession of the inventory.

(d) The notification states that the person giving the notice has or expects to acquire a purchase money security interest in inventory of the debtor, describing such inventory by item or type.

(4) A purchase money security interest in collateral other than inventory has priority over a conflicting security interest in the same collateral or its proceeds if the purchase money security interest is perfected at the time the debtor receives possession of the collateral or within 20 days thereafter.

(5) In all cases not governed by other rules stated in this section (including cases of purchase money security interests which do not

qualify for the special priorities set forth in subdivisions (3) and (4)), priority between conflicting security interests in the same collateral shall be determined according to the following rules:

(a) Conflicting security interests rank according to priority in time of filing or perfection. Priority dates from the time a filing is first made covering the collateral or the time the security interest is first perfected, whichever is earlier, provided that there is no period thereafter when there is neither filing nor perfection.

(b) So long as conflicting security interests are unperfected, the first to attach has priority.

(6) For the purposes of subdivision (5) a date of filing or perfection as to collateral is also a date of filing or perfection as to proceeds.

(7) If future advances are made while a security interest is perfected by filing, the taking of possession, or under Section 8321 on securities, the security interest has the same priority for the purposes of subdivision (5) with respect to the future advances as it does with respect to the first advance. If a commitment is made before or while the security interest is so perfected, the security interest has the same priority with respect to advances made pursuant thereto. In other cases a perfected security interest has priority from the date the advance is made.

CHAPTER 607

An act to amend Section 43203 of the Health and Safety Code, relating to air pollution.

[Approved by Governor September 16, 1985 Filed with Secretary of State September 17, 1985]

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

SECTION 1. Section 43203 of the Health and Safety Code is amended to read:

43203. (a) In connection with surveillance of emissions from new motor vehicles prior to their retail sale, the state board may, by regulation, impose fees on manufacturers of these vehicles to recover the state board's costs in conducting this surveillance.

(b) A manufacturer who fails to pay a fee imposed pursuant to this section within 60 days after receiving an invoice shall pay the state board an additional fee equal to 10 percent of the fee specified in subdivision (a). If the manufacturer notifies the state board, within 60 days after receiving the invoice, that additional information is needed to honor the invoice, the state board shall grant an additional 90 days for payment without the imposition of an additional fee. An additional interest fee equal to the rate of interest earned by the Pooled Money Investment Fund shall be imposed upon the fee

specified in subdivision (a) and the additional fees specified in this subdivision and subdivision (c) for each 30-day period for which they remain unpaid, commencing 60 days after the receipt of the original invoice.

(c) A manufacturer who fails to pay all the fees imposed pursuant to this section within one year from the date of receipt of the original invoice shall pay a penalty fee equal to 100 percent of the fees imposed pursuant to subdivisions (a) and (b). A manufacturer who fails to pay all the fees and penalties imposed pursuant to this section within two years from the date of receipt of the original invoice shall pay a penalty equal to 100 percent of the fees and penalties imposed pursuant to subdivisions (a) and (b) and to this subdivision, for each one-year period for which they remain unpaid.

(d) Fees authorized by this section shall be imposed only for surveillance of emissions from new motor vehicles actually conducted.

(e) Notwithstanding Section 13340 of the Government Code, all fees collected pursuant to subdivision (a) are continuously appropriated to the state board, to be credited as a reimbursement of the board's costs incurred in its program for the surveillance of emissions from new vehicles. All fees collected pursuant to subdivisions (b) and (c) shall be deposited by the state board into the Air Pollution Control Fund.

CHAPTER 608

An act to add Section 22658.1 to the Vehicle Code, relating to vehicles.

[Approved by Governor September 16, 1985 Filed with Secretary of State September 17, 1985]

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

SECTION 1. Section 22658.1 is added to the Vehicle Code, to read:

22658.1. (a) Any towing company that, in removing a vehicle, cuts, removes, otherwise damages, or leaves open a fence without the prior approval of the property owner or the person in charge of the property shall then and there do either of the following:

(a) Locate and notify the owner or person in charge of the property of the damage or open condition of the fence, the name and address of the towing company, and the license, registration, or identification number of the vehicle being removed.

(2) Leave in a conspicuous place on the property the name and address of the towing company, and the license, registration, or identification number of the vehicle being removed, and shall without unnecessary delay, notify the police department of the city

in which the property is located, or if the property is located in unincorporated territory, either the sheriff or the local headquarters of the Department of the California Highway Patrol, of that information and the location of the damaged or opened fence.

(b) Any person failing to comply with all the requirements of this section is guilty of an infraction.

SEC. 2. No reimbursement is required by this act pursuant to 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 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 609

An act to amend Section 4582.7 of the Public Resources Code, relating to forest practices.

[Approved by Governor September 16, 1985 Filed with Secretary of State September 17, 1985]

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

SECTION 1. Section 4582.7 of the Public Resources Code is amended to read:

4582.7. The director shall have 15 days from the date the initial inspection is completed or, in the event the director determines that the inspection need not be made, 15 days from the date of filing, as specified in Section 4604, or a longer period mutually agreed upon by the director and the person submitting the timber harvesting plan, to review the plan to determine if it is in conformance with the rules and regulations of the board and with this chapter. If the director determines that the plan is not in conformance with the rules and regulations of the board or with this chapter, the director shall return the plan, stating his or her reasons and advising the person submitting the plan of the person's right to a hearing before the board, and timber operations shall not commence. A person to whom a plan is returned may, within 10 days from the receipt of the plan, request of the board a public hearing before the board. The board shall schedule a public hearing to review the plan to determine if it is in conformance with the rules and regulations of the board and this chapter. Timber operations shall await board approval of the plan. Board action shall occur within 30 days from the filing of the appeal, or a longer period mutually agreed upon by the board and the person filing the appeal. If the plan is not approved on appeal to the board, the plan may be found to be in conformance by the director within 10 days of board action, provided the plan is brought into full conformance with the rules and regulations of the board and

this chapter. If the director does not act within 15 days, or a longer period mutually agreed upon by the director and the person submitting the timber harvesting plan, timber operations may commence pursuant to the plan, and all provisions of the plan shall be followed as provided in this chapter.

CHAPTER 610

An act to amend Section 9880.1 of the Business and Professions Code, relating to automotive repair.

[Approved by Governor September 16, 1985. Filed with Secretary of State September 17, 1985]

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

SECTION 1. Section 9880.1 of the Business and Professions Code is amended to read:

9880.1. The following terms as used in this chapter have the meaning expressed in this section.

(a) "Automotive repair dealer" means a person who, for compensation, engages in the business of repairing or diagnosing malfunctions of motor vehicles.

(b) "Board" means the Advisory Board, Bureau of Automotive Repair.

(c) "Chief" means the Chief of the Bureau of Automotive Repair.

(d) "Bureau" means the Bureau of Automotive Repair.

(e) "Motor vehicle" means a passenger vehicle or a commercial vehicle with a gross vehicle weight of less than 10,000 pounds, required to be registered with the Department of Motor Vehicles and all motorcycles whether or not required to be registered by the Department of Motor Vehicles.

(f) "Repair of motor vehicles" means all maintenance of and repairs to motor vehicles performed by an automotive repair dealer, but excluding those repairs made pursuant to a commercial business agreement and also excluding repairing tires, changing tires, lubricating vehicles, installing light bulbs, batteries, windshield wiper blades and other minor accessories, cleaning, adjusting, and replacing spark plugs, replacing fan belts, oil, and air filters, and other minor services, which the director, by regulation, determines are customarily performed by gasoline service stations.

No service shall be designated as minor, for purposes of this section, if the director finds that performance of the service requires mechanical expertise, has given rise to a high incidence of fraud or deceptive practices, or involves a part of the vehicle essential to its safe operation.

(g) "Person" includes firm, partnership, association, or corporation.

(h) A "mechanic" is an employee of an automotive repair dealer or is such dealer, if the employer or dealer repairs motor vehicles and who for salary or wage performs maintenance, repair, removal, or installation of any integral component parts of an engine, driveline, chassis or body of any vehicle, but excluding repairing tires, changing tires, lubricating vehicles, installing light bulbs, batteries, windshield wiper blades, and other minor accessories; cleaning, replacing fan belts, oil and air filters; and other minor services which the director, by regulation, determines are customarily performed by a gasoline service station.

(i) "Director" means the Director of Consumer Affairs.

(j) "Commercial business agreement" means an agreement, whether in writing or oral, entered into between a business or commercial enterprise and an automobile repair dealer, prior to the repair which is requested being made, which agreement contemplates a continuing business arrangement under which the automobile repair dealer is to repair any vehicle covered by the agreement, but does not mean any warranty or extended service agreement normally given by an automobile repair facility to its customers.

SEC. 2. No reimbursement is required by this act pursuant to 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 incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 611

An act to amend Sections 82019, 87103, 87200, and 87500 of the Government Code, relating to the Political Reform Act of 1974.

[Approved by Governor September 16, 1985 Filed with Secretary of State September 17, 1985]

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.

(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, any unsalaried member of any board or commission which serves a solely advisory function, any public official specified in Section 87200, and also does not include any unsalaried member of a nonregulatory committee, section, commission, or other such entity of the State Bar of California.

SEC. 1.5. Section 87103 of the Government Code is amended to read:

87103. An official has a financial interest in a decision within the meaning of Section 87100 if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on the official or a member of his or her immediate family or on:

(a) Any business entity in which the public official has a direct or indirect investment worth one thousand dollars ($1,000) or more.

(b) Any real property in which the public official has a direct or indirect interest worth one thousand dollars ($1,000) or more.

(c) Any source of income, other than gifts and other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status, aggregating two hundred fifty dollars ($250) or more in value provided to, received by or promised to the public official within 12 months prior to the time when the decision is made.

(d) Any business entity in which the public official is a director, officer, partner, trustee, employee, or holds any position of management.

(e) Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating two hundred fifty dollars ($250) or more in value provided to, received by, or promised to the public official within 12 months prior to the time when the decision is made.

For purposes of this section, indirect investment or interest means any investment or interest owned by the spouse or dependent child of a public official, by an agent on behalf of a public official, or by a business entity or trust in which the official, the official's agents, spouse, and dependent children own directly, indirectly, or beneficially a 10-percent interest or greater.

SEC. 2. Section 87200 of the Government Code is amended to read:

87200. This article is applicable to elected state officers, judges and commissioners of courts of the judicial branch of government,

members of the Public Utilities Commission, members of the State Energy Resources Conservation and Development Commission, members of the Fair Political Practices Commission, members of the California Coastal Commission, members of planning commissions, members of the board of supervisors, district attorneys, county counsels, and chief administrative officers of counties, mayors, city managers, city attorneys, chief administrative officers and members of city councils of cities, and to candidates for any of these offices at any election.

SEC. 3. Section 87500 of the Government Code is amended to read:

87500. Statements of economic interests required by this chapter shall be filed as follows:

(a) Statewide elected officer—one original with the agency which shall make and retain a copy and forward the original to the commission, which shall retain the original and send one copy to the Registrar-Recorder of Los Angeles County and one copy with the Clerk of the City and County of San Francisco. The commission shall be the filing officer.

(b) Candidates for statewide elective office—one original with the person with whom the candidate's declaration of candidacy is filed, who shall forward the original to the commission which shall retain the original and send one copy to the Registrar-Recorder of Los Angeles County and one copy with the Clerk of the City and County of San Francisco. The commission shall be the filing officer.

(c) Members of the Legislature and Board of Equalization—one original with the agency which shall make and retain a copy and forward the original to the commission, which shall retain the original and send one copy to the clerk of the county which contains the largest percentage of registered voters in the election district which the officeholder represents, and one copy to the clerk of the county in which the officeholder resides. No more than one copy of each statement need be filed with the clerk of any one county. The commission shall be the filing officer.

(d) Candidates for the Legislature or the Board of Equalization—one original with the person with whom the candidate's declaration of candidacy is filed, who shall forward the original to the commission which shall retain the original and send one copy to the clerk of the county which contains the largest percentage of registered voters in the election district in which the candidate seeks nomination or election, and one copy to the clerk of the county in which the candidate resides. No more than one copy of each statement need be filed with the clerk of any one county. The commission shall be the filing officer.

(e) Persons holding the office of chief administrative officer and candidates for and persons holding the office of district attorney, county counsel, and member of the board of supervisors—one original with the county clerk who shall make and retain a copy and forward the original to the commission which shall be the filing

officer.

(f) Persons holding the office of city manager or, if there is no city manager, the chief administrative officer, and candidates for and persons holding the office of city council member, city attorney, and mayor—one original with the city clerk who shall make and retain a copy and forward the original to the commission which shall be the filing officer.

(g) Members of the Public Utilities Commission, members of the State Energy Resources Conservation and Development Commission, planning commissioners, and members of the California Coastal Commission—one original with the agency which shall make and retain a copy and forward the original to the commission which shall be the filing officer.

(h) Members of the Fair Political Practices Commission—one original with the commission which shall make and retain a copy and forward the original to the office of the Attorney General which shall be the filing officer.

(i) Judges and court commissioners—one original with the clerk of the court who shall make and retain a copy and forward the original to the commission which shall be the filing officer.

(j) Except as provided for in subdivision (k), heads of agencies, members of boards or commissions not under a department of state government or members of boards or commissions not under the jurisdiction of a local legislative body—one original with the agency, which shall make and retain a copy and forward the original to the code reviewing body which shall be the filing officer. In its discretion, the code reviewing body may provide that the original be filed directly with the code reviewing body and that no copy be retained by the agency.

(k) Heads of local government agencies and members of local government boards or commissions, for which the Fair Political Practices Commission is the code reviewing body, one original to the agency or board or commission which shall be the filing officer, unless at its discretion the Fair Political Practices Commission elects to act as the filing officer. In this instance, the original shall be filed with the agency or board or commission, which shall make and retain a copy and forward the original to the Fair Political Practices Commission.

(*l*) Designated employees of the Legislature—one original with the house of the Legislature by which the designated employee is employed. In its discretion, each house of the Legislature may provide that the originals of statements filed by its designated employees be filed directly with the commission, and that no copies be retained by that house.

(m) Persons not mentioned above—one original with the agency or with the code reviewing body, as provided by the code reviewing body in the agency's conflict of interest code.

SEC. 4. The Legislature finds and declares that the provisions of this act further the purposes of the Political Reform Act of 1974

within the meaning of subdivision (a) of Section 81012 of the Government Code.

CHAPTER 612

An act to amend Sections 4842.5 and 4905 of, to repeal Section 4843.2 of, and to repeal and add Section 4900 of, the Business and Professions Code, relating to veterinary medicine, and making an appropriation therefor.

[Approved by Governor September 16, 1985. Filed with Secretary of State September 17, 1985.]

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

SECTION 1. Section 4842.5 of the Business and Professions Code is amended to read:

4842.5. The amount of fees prescribed by this article is that fixed by the following schedule:

(a) The fee for filing an application for examination shall be set by the board at not more than fifty dollars ($50).

(b) The fee for registration shall be set by the board at not more than forty dollars ($40).

(c) The renewal fee shall be set by the board at not more than fifty dollars ($50).

(d) The delinquency fee shall be ten dollars ($10).

(e) Any charge made for duplication or other services shall be set at the cost of rendering such services.

(f) The fee for filing an application for approval of a school pursuant to Section 4843 shall be set by the board at an amount not to exceed the cost of the approval process.

SEC. 2. Section 4843.2 of the Business and Professions Code is repealed.

SEC. 3. Section 4900 of the Business and Professions Code is repealed.

SEC. 4. Section 4900 is added to the Business and Professions Code, to read:

4900. (a) All veterinary licenses and animal health technician certificates shall expire at 12 midnight of the last day of the birth month of the licensee or certificate holder during the second year of a two-year term if not renewed.

(b) The board 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 and certificate expiration dates and a pro rata formula for the payment of renewal fees by veterinarians and animal health technicians affected by the implementation of the program.

(c) To renew an unexpired license or certificate, the licensee or

certificate holder shall, on or before the date of expiration of the license or certificate, apply for renewal on a form provided by the board, accompanied by the prescribed renewal fee.

(d) 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 or certificate shall continue in effect through the expiration date provided in this section which next occurs after the effective date of the renewal, when it shall expire, if it is not again renewed.

SEC. 5. Section 4905 of the Business and Professions Code is amended to read:

4905. The following fees shall be collected by the board and shall be credited to the Board of Examiners in Veterinary Medicine Contingent Fund:

(a) The fee for filing an application for examination shall be fixed by the board in such amount as it determines is reasonably necessary to provide sufficient funds to carry out the purpose of this chapter, but not to exceed one hundred eighty dollars ($180) for the practical examination, and not more than one hundred eighty dollars ($180) for the written examination.

(b) The initial license fee is an amount equal to the renewal fee in effect on the last regular renewal date before the date on which the license is issued, except that, if the license is issued less than one year before the date on which it will expire, then the fee is an amount equal to 50 percent of the renewal fee in effect on the last regular renewal date before the date on which the license is issued. The board 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.

(c) The renewal fee shall be fixed by the board for each biennial renewal period in such amount as it determines is reasonably necessary to provide sufficient funds to carry out the purpose of this chapter, but not to exceed one hundred fifty dollars ($150).

(d) The delinquency fee shall not exceed twenty-five dollars ($25).

(e) The fee for issuance of a duplicate license is ten dollars ($10).

(f) The board may make a charge for records, transcripts, and other official documents pertaining to the affairs of the board.

(g) The fee for failure to report a change in the place of practice is fifteen dollars ($15).

(h) The initial and annual renewal fees for registration of veterinary premises shall be set by the board in an amount not to exceed fifty dollars ($50) annually.

CHAPTER 613

An act to repeal Article 5 (commencing with Section 4140) of, and to add Article 5.5 (commencing with Section 4140) to, Chapter 9 of Division 2 of the Business and Professions Code, relating to hypodermics.

[Approved by Governor September 16, 1985. Filed with Secretary of State September 17, 1985.]

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

SECTION 1. Article 5 (commencing with Section 4140) of Chapter 9 of Division 2 of the Business and Professions Code is repealed.

SEC. 2. Article 5.5 (commencing with Section 4140) is added to Chapter 9 of Division 2 of the Business and Professions Code, to read:

Article 5.5. Hypodermics

4140. No person shall furnish hypodermic needles or syringes, by sale or otherwise, without a permit issued by the board, except as otherwise provided by this article.

4141. (a) A certificate, license, permit, registration, or exemption issued pursuant to Section 4080 or 4084.6 shall be considered a permit within the meaning of Section 4140.

(b) The board may, in its discretion, issue a permit to any person authorizing the sale and dispensing of hypodermic syringes and needles for use for animals and poultry.

(c) The application for a permit shall be made in writing on a form to be furnished by the board. The board may require such information as the board deems reasonably necessary to carry out the purposes of this article.

(d) A separate permit shall be required for each of the premises of any person who sells or dispenses hypodermic syringes or needles at more than one location.

(e) A permit shall be renewed annually, on or before January 1 of each year and shall not be transferable.

(f) The board may deny, revoke, or suspend any permit issued pursuant to the provisions of this article for any violation of this chapter.

4142. (a) A nonresident distributor shall not sell or distribute hypodermic needles or syringes in this state without obtaining a permit from the board pursuant to Section 4141.

(b) Notwithstanding subdivision (a), no permit shall be required if the nonresident distributor sells or distributes solely through a person who is licensed as a wholesaler pursuant to Section 4084.

(c) The Legislature, by enacting this section, does not intend a permit issued to any nonresident distributor pursuant to this article

to serve as evidence that the entity is doing business within this state.

4143. Except as otherwise provided by this article, no hypodermic needle or syringe shall be sold at retail except upon the prescription of a physician and surgeon, dentist, veterinarian, or podiatrist.

4144. The provisions of this article with reference to hypodermic syringes and needles do not apply to the sale at wholesale by pharmacies, drug jobbers, drug wholesalers, drug manufacturers or manufacturers and dealers in surgical instruments to pharmacies, physicians, dentists, podiatrists, veterinarians, or persons to whom a permit has been issued under this article.

4145. A person may sell or obtain hypodermic needles and hypodermic syringes without a prescription or permit, for uses which the board determines are industrial, and that person shall not be required to comply with Section 4146 or 4147.

4146. Notwithstanding any other provision of law, a pharmacist or physician may, without a prescription or a permit, furnish hypodermic needles and syringes for human use in the administration of insulin or adrenaline; a pharmacist or veterinarian may, without a prescription or permit, furnish hypodermic needles and syringes for use on poultry or animals; and a person may, without a prescription or permit, obtain hypodermic needles and syringes from a pharmacist or physician for human use in the administration of insulin or adrenaline, or from a pharmacist, veterinarian, or permitholder, for use on poultry or animals; if all of the following requirements are met:

(a) No needle or syringe shall be furnished to a person who is unknown to the furnisher and unable to properly establish his or her identity.

(b) The furnisher, at the time furnishing occurs, makes a record of the furnishing in the manner required by Section 4147.

4147. Any furnishing of a hypodermic syringe or hypodermic needle without a prescription shall, at the time of furnishing, be recorded in a book by the furnisher. The record of furnishing shall consist of the date and hour of the furnishing, the type or kind, size, and quantity of syringe or needle furnished, the purpose and use for which the needle or syringe was obtained, the signature of the furnisher, and the signature and address of the person to whom the needle or syringe was furnished. The record book shall be available for inspection by any authorized officer of the law.

4148. Any hypodermic needle or syringe which is to be disposed of, shall be destroyed in a manner so as to render each unit unfit for reuse in any manner. Destruction may include, but is not limited to, grinding and disposal in sewerage systems where such disposal is authorized by the appropriate agency having jurisdiction over the sewerage system.

4149. No person shall possess or have under his or her control any hypodermic needle or syringe except when acquired in accordance with the provisions of this article.

4150. Any person obtaining possession of a hypodermic needle or hypodermic syringe by a false or fraudulent representation or design or by a forged or fictitious name, or contrary to, or in violation of, any of the provisions of this chapter, is guilty of a misdemeanor.

4151. Any person who has obtained a hypodermic needle or hypodermic syringe from any person to whom a permit has been issued as provided in this article and who uses, or permits or causes, directly or indirectly, the hypodermic needle or hypodermic syringe to be used for any purpose other than that for which it was purchased is guilty of a misdemeanor and upon conviction thereof is punishable by a fine not exceeding one thousand dollars ($1,000), or by imprisonment in a county jail not exceeding one year, or both a fine and inprisonment.

4152. All stocks of hypodermic needles or syringes shall be confiscated if found outside the licensed premises of any person holding a permit under Section 4141 and found not in the possession or under the control of a person entitled to an exemption under Section 4144, 4145, or 4146.

CHAPTER 614

An act to amend Section 74352.3 of the Government Code, and to amend Section 1205 of the Penal Code, relating to courts.

[Approved by Governor September 16, 1985 Filed with Secretary of State September 17, 1985.]

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

SECTION 1. Section 74352.3 of the Government Code is amended to read:

74352.3. The Legislature hereby authorizes the establishment of the following program, to be implemented in the County of San Diego upon the adoption of a resolution by the board of supervisors authorizing it. 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:

(a) 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.

(b) 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.

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) The Legislature hereby authorizes the establishment of the following program described in this section, to be implemented in the County of San Diego, upon the adoption of a resolution by the board of supervisors authorizing it. 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).

CHAPTER 615

An act to amend Section 10105 of, and to add Section 10122.6 to, the Public Contract Code, relating to public works contracts.

[Approved by Governor September 16, 1985 Filed with Secretary of State September 17, 1985]

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

SECTION 1. Section 10105 of the Public Contract Code is amended to read:

10105. (a) As used in this part, "project" includes the erection, construction, alteration, repair or improvement of any state structure, building, road, or other state improvement of any kind which will exceed a total cost calculated pursuant to subdivision (b).

(b) The total cost limit for calendar years 1986 and 1987 shall be thirty-five thousand dollars ($35,000). For calendar year 1988, and at two year intervals thereafter, the total cost limit shall be adjusted upward or downward by the Director of Finance to reflect the percentage change in the annual California Construction Index as used by the Department of General Services. The amount shall be rounded off to the nearest one thousand dollar ($1,000) figure.

SEC. 2. Section 10122.6 is added to the Public Contract Code, to read:

10122.6. Notwithstanding the project cost limit provided in Section 10105, work in excess of twenty-five thousand dollars ($25,000) which would otherwise constitute a project, shall not be done by day's labor unless the requirements of Section 10122 are met.

CHAPTER 616

An act to add Section 25503.8 to the Business and Professions Code, relating to alcoholic beverages, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 16, 1985. Filed with Secretary of State September 17, 1985.]

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

SECTION 1. Section 25503.8 is added to the Business and Professions Code, to read:

25503.8. (a) Notwithstanding any other provision of this chapter, the holder of a beer manufacturer's or winegrower's license may purchase advertising space and time from, or on behalf of, an on-sale retail licensee if all of the following conditions are met:

(1) The on-sale licensee is the owner of a fully enclosed auditorium or theater with a fixed seating capacity in excess of 6,000 seats, at least 60 percent of the use of which is for plays or musical concerts, not including sporting events.

(2) The advertising space or time is purchased only in connection with sponsorship of plays or musical concerts to be held on the premises of the auditorium or theater owned by the on-sale licensee.

(3) The on-sale licensee serves other brands of beer or wine in addition to the brand manufactured by the beer manufacturer or produced by the winegrower purchasing the advertising space or time.

(b) Any purchase of advertising space or time conducted pursuant to subdivision (a) shall be conducted pursuant to a written contract entered into by the holder of the beer manufacturer's or winegrower's license and the on-sale licensee, which contract shall not in any way involve the holder of a beer or wine wholesaler's license.

(c) Any holder of a beer manufacturer's license or winegrower's license who, through coercion or other means, induces a holder of a beer or wine wholesaler's license to fulfill those contractual obligations entered into pursuant to subdivision (a) or (b) shall be guilty of a misdemeanor and shall be punished by imprisonment in the county jail not exceeding six months, or by a fine in an amount equal to the entire value of the advertising space or time involved in the contract, plus ten thousand dollars ($10,000), or by both imprisonment and fine. The person shall also be subject to license revocation pursuant to Section 24200.

SEC. 2. The Legislature finds that it is necessary and proper to require a separation between manufacturing interests, wholesale interests, and retail interests in the production and distribution of alcoholic beverages in order to prevent manufacturers from dominating local markets through incentives and compensation to

retailers. The Legislature further finds that it is necessary that the exception established by this act to the general prohibition against manufacturers compensating retailers in any way in connection with the advertising of alcoholic beverages be limited to the express terms of the exception so as not to undermine the general prohibition, and intends that this act be construed accordingly.

SEC. 3. No reimbursement is required by this act pursuant to 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 incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

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

In order that advertising space may be purchased in connection with the sponsorship of plays or musical concerts which are scheduled for the summer and fall of 1985, it is necessary that this act go into immediate effect.

CHAPTER 617

An act to amend Sections 24005, 27720, 27721, 27722, 27724, 27725, 51283.3, 53891, and 65101 of, to add Sections 25845 27728, 34502, 34503, 34504, and 65106 to, to repeal Sections 25845, 34503, 34504, 34505, 34506, 34507, 34508, 34509, 34510, 34511, and 34512 of, the Government Code, to amend Sections 8890, 9025, and 33445 of the Health and Safety Code, to amend Sections 15968 and 15969 of the Public Utilities Code, and to amend Section 1611.5 of the Revenue and Taxation Code, relating to local agencies.

[Approved by Governor September 16, 1985. Filed with Secretary of State September 17, 1985]

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

SECTION 1. Section 24005 of the Government Code is amended to read:

24005. County officers and employees are entitled to a vacation with pay for each year of full-time service. Elected county officers under bond are not subject to the provisions of this section.

SEC. 2. Section 25845 of the Government Code is repealed.

SEC. 3. Section 25845 is added to the Government Code, to read:

25845. (a) The board of supervisors, by ordinance, may establish a procedure for the abatement of a nuisance. The ordinance shall, at a minimum, provide that the owner of the parcel, and anyone known to the board of supervisors to be in possession of the parcel, be given

notice of the abatement proceeding and an opportunity to appear before the board of supervisors and be heard prior to the abatement of the nuisance by the county. However, nothing in this section prohibits the summary abatement of a nuisance upon order of the board of supervisors, or upon order of any other county officer authorized by law to summarily abate nuisances, if the board or officer determines that the nuisance constitutes an immediate threat to public health or safety.

(b) If the owner fails to pay the costs of the abatement upon demand by the county, the board of supervisors may order the cost of the abatement to be specially assessed against the parcel. The assessment may be collected at the same time and in the same manner as ordinary county taxes are collected, and shall be subject to the same penalties and the same procedure and sale in case of delinquency as are provided for ordinary county taxes. All laws applicable to the levy, collection, and enforcement of county taxes are applicable to such a special assessment.

(c) If the board of supervisors specially assesses the cost of the abatement against the parcel, the board also may cause a notice of abatement lien to be recorded. The notice shall, at a minimum, identify the record owner or possessor of property, set forth the last known address of the record owner or possessor, set forth the date upon which abatement of the nuisance was ordered by the board of supervisors and the date the abatement was complete, and include a description of the real property subject to the lien and the amount of the abatement cost.

(d) However, if the board of supervisors does not cause the recordation of a notice of abatement lien pursuant to subdivision (c), and any real property to which the costs of abatement relates has been transferred or conveyed to a bona fide purchaser for value, or a lien on a bona fide encumbrancer for value has been created and attaches to that property, prior to the date on which the first installment of county taxes would become delinquent, then the cost of abatement shall not result in a lien against that real property but shall be transferred to the unsecured roll for collection.

(e) Recordation of a notice of abatement lien pursuant to subdivision (c) has the same effect as recordation of an abstract of a money judgment recorded pursuant to Article 2 (commencing with Section 697.310) of Chapter 2 of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure. The lien created has the same priority as a judgment lien on real property and continues in effect until released. Upon order of the board of supervisors, or any county officer authorized by the board of supervisors to act on its behalf, an abatement lien created under this section may be released or subordinated in the same manner as a judgment lien on real property may be released or subordinated.

SEC. 4. Section 27720 of the Government Code is amended to read:

27720. The board of supervisors of any county may establish the

office of county hearing officer. The duties of the office are to conduct hearings for the county or any board, agency, commission, or committee of the county.

SEC. 5. Section 27721 of the Government Code is amended to read:

27721. When a state law or local ordinance provides that a hearing be held or that findings of fact or conclusions of law be made by any county board, agency, commission, or committee, the county hearing officer may be authorized by ordinance or resolution to conduct the hearing; to issue subpoenas; to receive evidence; to administer oaths; to rule on questions of law and the admissibility of evidence; and to prepare a record of the proceedings.

SEC. 6. Section 27722 of the Government Code is amended to read:

27722. (a) If the hearing officer is authorized to decide a matter upon which a hearing has been held pursuant to Section 27721, the officer shall render a written decision, including any findings or conclusions required for that decision, and submit the decision and the record to the clerk of the local body on whose behalf the hearing was held.

(b) If the hearing officer is not authorized to decide a matter upon which a hearing has been held pursuant to Section 27221, the officer shall prepare a recommended decision, including any findings or conclusions required for that decision, and shall submit that recommendation and the record to the clerk of the local body on whose behalf the hearing was held. The local body may adopt the recommended findings, conclusions, and decision, or may reject the recommendation and enter its own findings, conclusions, and decision after a review of the record.

SEC. 7. Section 27724 of the Government Code is amended to read:

27724. Any county hearing officer, or any deputy or assistant hearing officer, appointed pursuant to this chapter, shall be an attorney at law having been admitted to practice before the courts of this state for at least five years prior to his or her appointment.

SEC. 8. Section 27725 of the Government Code is amended to read:

27725. Any other local public entity may contract with the county to employ the services of the county hearing officer. The duties and responsibilities of the hearing officer described in Sections 27721 and 27722 shall be set forth in the contract. Reimbursement to the county for the services of a county hearing officer shall be made as provided in the contract. If no provision for reimbursement is contained in the contract, reimbursement shall be made on a pro rata basis of actual cost to the county in providing the service including salaries, benefits, overhead, and any travel expense.

SEC. 9. Section 27728 is added to the Government Code, to read:

27728. The provisions of this chapter provide an alternative to, and do not supersede, any other provision of law providing for any

matter to be heard or determined by a hearing officer.

SEC. 10. Section 34502 is added to the Government Code, to read:

34502. The legislative body may, by ordinance adopted by a four-fifths vote of its members, change the name of the city. In the same manner, the legislative body may eliminate the word "city" from the corporate name and substitute the word "town" or eliminate the word "town" and substitute the word "city."

SEC. 11. Section 34503 of the Government Code is repealed.

SEC. 12. Section 34503 is added to the Government Code, to read:

34503. Within 10 days of the effective date of an ordinance adopted pursuant to Section 34502, or within 10 days of the date the legislative body declares the vote on an ordinance passed by initiative or referendum, the city clerk shall file a copy of the ordinance with the Secretary of State, the board of supervisors of the county in which the city is located, and the local agency formation commission of the county in which the city is located.

SEC. 13. Section 34504 of the Government Code is repealed.

SEC. 14. Section 34504 is added to the Government Code, to read:

34504. If an ordinance proposed pursuant to Section 34502 fails passage by the legislative body or if the voters fail to confirm the ordinance, no ordinance changing the name of the city shall be considered for two years from the date of the vote of the legislative body or from the date of the election.

SEC. 15. Section 34505 of the Government Code is repealed.

SEC. 16. Section 34506 of the Government Code is repealed.

SEC. 17. Section 34507 of the Government Code is repealed.

SEC. 18. Section 34508 of the Government Code is repealed.

SEC. 19. Section 34509 of the Government Code is repealed.

SEC. 20. Section 34510 of the Government Code is repealed.

SEC. 21. Section 34511 of the Government Code is repealed.

SEC. 22. Section 34512 of the Government Code is repealed.

SEC. 23. Section 51283.3 of the Government Code is amended to read:

51283.3. (a) Upon tentative approval of a cancellation petition, the clerk of the board or council shall record in the office of the county recorder of the county in which the land as to which the contract is canceled is located a certificate, which shall set forth the name of the owner of the land at the time the contract was canceled with the amount of the cancellation fee certified by the board or council as being due pursuant to this article, the contingency of any waiver or deferment of payments, and a legal description of the property. From the date of recording of the certificate, the contract shall be finally canceled and, to the extent the cancellation fee has not yet been paid, a lien shall be created and attach against the real property described therein and any other real property owned by the person named therein as the owner and located within the county. The lien shall have the force, effect, and priority of a judgment lien. Nothing in this section or Section 51283 shall preclude the board or council from requiring payment in full of the

cancellation fee prior to the cancellation becoming effective.

(b) In no case, shall the cancellation of a contract be final until the notice of cancellation is actually recorded as provided in this section. Notwithstanding any provision of the Revenue and Taxation Code, any payments required by Sections 51283 and 51283.1 shall not create nor impose a lien or charge on the land as to which a contract is canceled except as herein provided.

(c) Upon the payment of the cancellation fee or any portion thereof, the clerk of the board or council shall record with the county recorder a written certificate of the release in whole or in part of the lien.

SEC. 24. Section 53891 of the Government Code is amended to read:

53891. The officer of each local agency who has charge of the financial records shall furnish to the Controller a report of all the financial transactions of the local agency during the next preceding fiscal year. The report shall be furnished within 90 days after the close of each fiscal year and shall be in the form required by the Controller. However, in the case of local agencies filing annual financial materials with the California Health Facilities Commission or any successor thereto pursuant to Section 441.18 of the Health and Safety Code, the audited report shall be furnished within 120 days after the close of each fiscal year. Further, in the case of community redevelopment agencies filing annual reports with the Controller pursuant to Section 33080 of the Health and Safety Code, the report shall be furnished within six months of the end of the agency's fiscal year.

The Controller shall prescribe uniform accounting and reporting procedures which shall be applicable to all local agencies except cities, counties, and school districts, and except for local agencies which substantially follow a system of accounting prescribed by the Public Utilities Commission of the State of California or the Federal Power Commission. The procedures shall be adopted under the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2. The Controller shall prescribe the procedures only after consultation with and approval of a local governmental advisory committee established pursuant to Section 12463.1. Approval of the procedures shall be by majority vote of the members present at a meeting of the committee called by the chairman thereof.

SEC. 25. Section 65101 of the Government Code is amended to read:

65101. (a) The legislative body may create one or more planning commissions each of which shall report directly to the legislative body. The legislative body shall specify the membership of the commission or commissions. In any event, each planning commission shall consist of at least five members, all of whom shall act in the public interest. If it creates more than one planning commission, the legislative body shall prescribe the issues, responsibilities, or

geographic jurisdiction assigned to each commission. If a development project affects the jurisdiction of more than one planning commission, the legislative body shall designate the commission which shall hear the entire development project.

(b) Two or more legislative bodies may:

(1) Create a joint area planning agency, planning commission, or advisory agency for all or prescribed portions of their cities or counties which shall exercise those powers and perform those duties under this title that the legislative bodies delegate to it.

(2) Authorize their planning agencies, or any components of them, to meet jointly to coordinate their work, conduct studies, develop plans, hold hearings, or jointly exercise any power or perform any duty common to them.

SEC. 26. Section 65106 is added to the Government Code, to read:

65106. Upon request all public officials shall furnish to the planning agency within a reasonable time any available information as may be required for the work of the planning agency.

SEC. 27. Section 8890 of the Health and Safety Code is amended to read:

8890. Public cemetery districts consisting of lands in one or more counties may be formed pursuant to this part.

SEC. 28. Section 9025 of the Health and Safety Code is amended to read:

9025. The boundaries of any district may be altered and territory, whether in one or more counties, may be annexed to a district.

SEC. 29. Section 33445 of the Health and Safety Code is amended to read:

33445. Notwithstanding the provisions of Section 33440, an agency may, with the consent of the legislative body, pay all or part of the value of the land for and the cost of the installation and construction of any building, facility, structure, or other improvement which is publicly owned either within or without the project area, if the legislative body determines both of the following:

(1) That the buildings, facilities, structures, or other improvements are of benefit to the project area or the immediate neighborhood in which the project is located, regardless of whether the improvement is within another project area, or in the case of a project area in which substantially all of the land is publicly owned that the improvement is of benefit to an adjacent project area of the agency.

(2) That no other reasonable means of financing such buildings, facilities, structures, or other improvements, are available to the community.

Those determinations by the agency and the local legislative body shall be final and conclusive. For redevelopment plans, and amendments to those plans which add territory to a project, adopted after October 1, 1976, acquisition of property and installation or construction of each facility shall be provided for in the redevelopment plan. A redevelopment agency shall not pay for the

normal maintenance or operations of buildings, facilities, structures, or other improvements which are publicly owned. Normal maintenance or operations do not include the construction, expansion, addition to, or reconstruction of, buildings, facilities, structures, or other improvements which are publicly owned otherwise undertaken pursuant to this section.

When the value of the land or the cost of the installation and construction of the building, facility, structure, or other improvement, or both, has been, or will be, paid or provided for initially by the community or other public corporation, the agency may enter into a contract with the community or other public corporation under which it agrees to reimburse the community or other public corporation for all or part of the value of the land or all or part of the cost of the building, facility, structure, or other improvement, or both, by periodic payments over a period of years.

The obligation of the agency under the contract shall constitute an indebtedness of the agency for the purpose of carrying out the redevelopment project for the project area, which indebtedness may be made payable out of taxes levied in the project area and allocated to the agency under subdivision (b) of Section 33670, or out of any other available funds.

In a case where the land has been or will be acquired by, or the cost of the installation and construction of the building, facility, structure or other improvement has been paid by, a parking authority, joint powers entity, or other public corporation to provide a building, facility, structure, or other improvement which has been or will be leased to the community, the contract may be made with, and the reimbursement may be made payable to, the community.

With respect to the financing, acquisition, or construction of a transportation, collection, and distribution system and related peripheral parking facilities, in a county with a population of 4,000,000 persons or more, the agency shall, in order to exercise the powers granted by this section, enter into an agreement with the rapid transit district which includes the county, or a portion thereof, in which agreement the rapid transit district shall be given all of the following responsibilities:

(a) To participate with the other parties to the agreement to design, determine the location and extent of the necessary rights-of-way for, and construct, the transportation, collection, and distribution systems and related peripheral parking structures and facilities.

(b) To operate and maintain the transportation, collection, and distribution systems and related peripheral parking structures and facilities in accordance with the rapid transit district's outstanding agreements and the agreement required by this paragraph.

SEC. 30. Section 15968 of the Public Utilities Code is amended to read:

15968. Immediately after receiving his or her certificate of election and before assuming the duties of office, each director shall

take and subscribe an official oath and file it in the office of the board.

SEC. 31. Section 15969 of the Public Utilities Code is amended to read:

15969. All official oaths shall be in the form provided by law for official oaths of county officers.

SEC. 32. Section 1611.5 of the Revenue and Taxation Code is amended to read:

1611.5. Written findings of fact of the county board shall be made if requested in writing by a party up to or at the commencement of the hearing, and if payment of any fee or deposit which may be required to cover the expense of preparing the findings is made by the party prior to the conclusion of the hearing. However, the party requesting findings may abandon the request and waive findings at the conclusion of the hearing. If the requesting party abandons his or her request at this time, his or her fee or deposit shall be returned if no findings have yet been prepared. If the request is abandoned, the other party may orally or in writing renew the request upon payment of the required fee or deposit, and becomes responsible for any costs for the preparation of findings. A reasonable fee may be imposed by the county to cover the expense of preparing findings and conclusions. The written findings of fact shall fairly disclose the board's determination of all material points raised by the party in his or her petition and at the hearing, including a statement of the method or methods of valuation used in appraising the property.

At the hearing the final determinations by the board shall be supported by the weight of the evidence and, with regard to questions of value, its determinations shall be made without limitation by reason of the applicant's opinion of value stated in the application for reduction in assessment pursuant to subdivision (a) of Section 1603.

If written findings of fact have been requested, the board shall transmit those findings to the requesting party accompanied by a notice that any request for a transcript of the proceedings must be made within 60 days following the date of the final determination of the board.

SEC. 33. Pursuant to Section 17579 of the Government Code, the Legislature finds that there is no mandate contained in this act which will result in costs incurred by a local agency or school district for a new program or higher level of service which require reimbursement pursuant to Section 6 of Article XIII B of the California Constitution and Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

CHAPTER 618

An act to add and repeal Section 89049 of the Education Code, relating to student aid, and making an appropriation therefor.

[Approved by Governor September 16, 1985 Filed with Secretary of State September 17, 1985.]

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

SECTION 1. Section 89049 is added to the Education Code, to read:

89049. (a) The trustees, in consultation with the Student Aid Commission, shall administer a program of scholarship awards and other methods of financial assistance, including work-study funding, as the trustees may deem appropriate.

(b) The recipients of financial assistance under this section shall be minority and disadvantaged students enrolled at campuses of the California State University in programs oriented to career placement in the real estate industry. In establishing and maintaining criteria for allocating this assistance, the trustees shall seek to maintain a balance among potential student applicants with regard to ethnic and cultural background and geographic residence.

(c) Of any state funding appropriated to the trustees for the purposes of this section, the principal shall be invested by the trustees in accordance with state law, and the resulting income and earnings shall be allocated to student financial assistance pursuant to subdivision (a).

(d) The trustees shall report annually to the Legislature regarding expenditures and awards pursuant to this section.

(e) This section shall remain in effect only until January 1, 1991, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1991, deletes or extends that date.

SEC. 2. The sum of four hundred thirty thousand dollars ($430,000) is hereby appropriated from the Education and Research Account of the Real Estate Fund to the Trustees of the California State University for the purposes of Section 89049 of the Education Code.

CHAPTER 619

An act to amend Sections 16027, 16370, and 16373 of, and to add and repeal Section 16370.7 of, the Vehicle Code, relating to financial responsibility.

[Approved by Governor September 16, 1985 Filed with Secretary of State September 17, 1985.]

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

SECTION 1. Section 16027 of the Vehicle Code is amended to read:

16027. (a) Whenever proof of financial responsibility has been established under subdivision (a) of Section 16054.2 and a period of four years has elapsed following the effective date of the suspension, the cash deposit, or any balance thereof remaining, shall be refunded to the person entitled thereto, if the director is satisfied that there are no outstanding or pending claims against the deposit.

(b) If the deposit, or any balance thereof, is refundable under this section but remains unclaimed by the depositor or any other person entitled thereto for a period of six years from the effective date of the suspension, the unclaimed deposit shall be transferred to the Motor Vehicle Account in the State Transportation Fund.

SEC. 2. Section 16370 of the Vehicle Code is amended to read:

16370. The department shall suspend the privilege of any person to operate a motor vehicle upon receiving a certified copy of a judgment, or a certified copy of the docket entries in an action resulting in a judgment for damages, and a certificate of facts relative to the judgment, on a form provided by the department, indicating that the person has failed for a period of 30 days to satisfy a judgment rendered against him or her.

SEC. 3. Section 16370.7 is added to the Vehicle Code, to read:

16370.7. Documents filed with the department pursuant to Section 16370 shall be accompanied by a fee of not to exceed twenty dollars ($20) to pay for processing the documents and issuing the suspension order.

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 enacted on or before January 1, 1988, deletes or extends that date.

SEC. 4. Section 16373 of the Vehicle Code is amended to read:

16373. (a) The clerk of a court, or the judge of a court which has no clerk, shall, subject to subdivision (b), issue upon the request of a judgment creditor a certified copy of any judgment or a certified copy of the docket entries in an action resulting in a judgment for damages, and a certificate of facts relative to the judgment on a form provided by the department.

(b) The judgment creditor may pay the required fees and request the documents specified in subdivision (a) upon the expiration of 30 days after the judgment has become final, if the judgment has not been stayed or satisfied within the amounts specified in this chapter as shown by the records of the court. The court shall determine the required fees, which shall be commensurate with the cost incurred by the court in carrying out this section.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution 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 620

An act to amend Section 1198.3 of the Labor Code, relating to working hours.

[Approved by Governor September 16, 1985 Filed with Secretary of State September 17, 1985.]

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

SECTION 1. Section 1198.3 of the Labor Code is amended to read:

1198.3. (a) The Chief of the Division of Labor Standards Enforcement may, when in his or her judgment hardship will result, exempt any employer or employees from any mandatory day or days off requirement contained in any order of the commission. Any exemption granted by the chief pursuant to this section shall be only of sufficient duration to permit the employer or employees to comply with the requirements contained in the order of the commission, but not more than one year. The exemption may be renewed by the chief only after he or she has investigated and is satisfied that a good faith effort is being made to comply with the order of the commission.

(b) No employer shall discharge or in any other manner discriminate against any employee who refuses to work hours in excess of those permitted by the order of the commission.

CHAPTER 621

An act to amend Sections 431.30 and 877.6 of the Code of Civil Procedure, relating to civil procedure.

[Approved by Governor September 16, 1985. Filed with Secretary of State September 17, 1985]

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

SECTION 1. Section 431.30 of the Code of Civil Procedure is amended to read:

431.30. (a) As used in this section:

(1) "Complaint" includes a cross-complaint.

(2) "Defendant" includes a person filing an answer to a cross-complaint.

(b) The answer to a complaint shall contain:

(1) The general or specific denial of the material allegations of

the complaint controverted by the defendant.

(2) A statement of any new matter constituting a defense.

(c) Affirmative relief may not be claimed in the answer.

(d) If the complaint is subject to Article 2 (commencing with Section 90) of Chapter 5 of Title 1 of Part 1 or is not verified, a general denial is sufficient but only puts in issue the material allegations of the complaint. If the complaint is verified, unless the complaint is subject to Article 2 (commencing with Section 90) of Chapter 5 of Title 1 of Part 1 or if the cause of action is a claim assigned to a third party for collection, the denial of the allegations shall be made positively or according to the information and belief of the defendant.

(e) If the defendant has no information or belief upon the subject sufficient to enable him or her to answer an allegation of the complaint, he or she may so state in his or her answer and place his or her denial on that ground.

(f) The denials of the allegations controverted may be stated by reference to specific paragraphs or parts of the complaint; or by express admission of certain allegations of the complaint with a general denial of all of the allegations not so admitted; or by denial of certain allegations upon information and belief, or for lack of sufficient information or belief, with a general denial of all allegations not so denied or expressly admitted.

(g) The defenses shall be separately stated, and the several defenses shall refer to the causes of action which they are intended to answer, in a manner by which they may be intelligibly distinguished.

SEC. 2. Section 877.6 of the Code of Civil Procedure is amended to read:

877.6. (a) Any party to an action wherein it is alleged that two or more parties are joint tortfeasors shall be entitled to a hearing on the issue of the good faith of a settlement entered into by the plaintiff or other claimant and one or more alleged tortfeasors, upon giving notice thereof in the manner provided in Sections 1010 and 1011 at least 20 days before the hearing. In addition, the notice may be served by mail pursuant to Section 1012, but in those cases the period of notice shall be at least 25 days if the place of address is within the State of California, at least 30 days if the place of address is outside the State of California but within the United States, and at least 40 days if the place of address is outside the United States. Upon a showing of good cause, the court may shorten the time for giving the required notice to permit the determination of the issue to be made before the commencement of the trial of the action, or before the verdict or judgment if settlement is made after the trial has commenced.

(b) The issue of the good faith of a settlement may be determined by the court on the basis of affidavits served with the notice of hearing, and any counteraffidavits filed in response thereto, or the court may, in its discretion, receive other evidence at the hearing.

(c) A determination by the court that the settlement was made in good faith shall bar any other joint tortfeasor from any further claims against the settling tortfeasor for equitable comparative contribution, or partial or comparative indemnity, based on comparative negligence or comparative fault.

(d) The party asserting the lack of good faith shall have the burden of proof on that issue.

(e) When a determination of the good faith or lack of good faith of a settlement is made, any party aggrieved by the determination may petition the proper court to review the determination by writ of mandate. The petition for writ of mandate shall be filed within 20 days after service of written notice of the determination, or within such additional time not exceeding 20 days as the trial court may allow.

(1) The court shall, within 30 days of the receipt of all materials to be filed by the parties, determine whether or not the court will hear the writ and notify the parties of its determination.

(2) If the court grants a hearing on the writ, the hearing shall be given special precedence over all other civil matters on the calendar of the court except those matters to which equal or greater precedence on the calendar is granted by law.

The running of any period of time after which an action would be subject to dismissal pursuant to Section 583 shall be tolled during the period of review of a determination pursuant to this subdivision.

CHAPTER 622

An act to amend Sections 12590, 12598, and 12610 of the Health and Safety Code, relating to fireworks.

[Approved by Governor September 16, 1985 Filed with Secretary of State September 17, 1985.]

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

SECTION 1. Section 12590 of the Health and Safety Code is amended to read:

12590. The State Fire Marshal may deny or revoke any license issued pursuant to this part if the State Fire Marshal finds any of the following conditions has occurred:

(a) The licensee has failed to pay the annual renewal license fee provided in this chapter.

(b) The licensee or license applicant has violated any provisions of this part or any regulations adopted by the State Fire Marshal pursuant to this part.

(c) The licensee or license applicant has created or caused a fire nuisance.

(d) The licensee has failed to keep full, complete, and accurate

records or failed to file any required reports.

(e) Any fact or condition exists which, if it had existed at the time of the original application for the license reasonably would have warranted the State Fire Marshal in refusing originally to issue the license.

(f) The permit issued under Section 12640 has been rescinded or revoked by the issuing authority.

(g) Any licensee or license applicant has refused to make available to the State Fire Marshal full, complete, and accurate records.

SEC. 2. Section 12598 of the Health and Safety Code is amended to read:

12598. Every licensee who fails to renew his or her license by the time the license expires shall surrender the license to the State Fire Marshal within 10 days after the license expires.

SEC. 3. Section 12610 of the Health and Safety Code is amended to read:

12610. Notwithstanding any of the provisions of the law which may require a certificate of insurance as a condition for a permit to hold a general, special, or limited public display, any person, firm, or corporation applying for a public display license shall furnish to the State Fire Marshal a policy of public liability and property damage insurance, with limits, as determined by the State Fire Marshal, which are reasonably necessary to cover possible liability for damage to property and bodily injury or damage to persons which may result from, or be caused by, the public display of fireworks, or any negligence on the part of the licensee or his or her or its agents, servants, employees, or subcontractors presenting the public display.

SEC. 4. The amendments made to Section 3 of this act during the 1985–86 Regular Session shall become operative upon adoption of regulations by the State Fire Marshal establishing the limits for public liability and property damage insurance.

CHAPTER 623

An act to amend Sections 4463 and 10752 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 16, 1985 Filed with Secretary of State September 17, 1985.]

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

SECTION 1. Section 4463 of the Vehicle Code is amended to read:

4463. (a) Every person who, with intent to prejudice, damage, or defraud, commits any of the following acts is guilty of a felony and upon conviction thereof shall be punished by imprisonment in the

state prison for 16 months, two or three years, or by imprisonment in the county jail for not more than one year:

(1) Alters, forges, counterfeits, or falsifies any certificate of ownership, registration card, certificate, license, license plate, device issued pursuant to Section 4853, special plate, or permit provided for by this code or any comparable certificate of ownership, registration card, certificate, license, license plate, device comparable to that issued pursuant to Section 4853, special plate, or permit relating to motor vehicles provided for by any foreign jurisdiction, or alters, forges, counterfeits, or falsifies any such document, device, or plate with intent to represent it as issued by the department, or alters, forges, counterfeits, or falsifies with fraudulent intent any endorsement of transfer on a certificate of ownership, or with fraudulent intent displays or causes or permits to be displayed or have in his or her possession any blank, incomplete, canceled, suspended, revoked, altered, forged, counterfeit, or false certificate of ownership, registration card, certificate, license, license plate, device issued pursuant to Section 4853, special plate, or permit.

(2) Utters, publishes, passes, or attempts to pass, as true and genuine, any false, altered, forged, or counterfeited matter listed in subdivision (a) knowing it to be false, altered, forged, or counterfeited.

(b) Every person who, with intent to prejudice, damage, or defraud, commits any of the following acts is guilty of a misdemeanor, and upon conviction thereof shall be punished by imprisonment in the county jail for six months or by a fine of not less than five hundred dollars ($500) or more than one thousand dollars ($1,000), or by both that fine and imprisonment, which penalty shall not be suspended:

(1) Forges, counterfeits, or falsifies any disabled person placard or any comparable placard relating to parking privileges for disabled persons provided for by any foreign jurisdiction, or forges, counterfeits, or falsifies any disabled person placard with intent to represent it as issued by the department.

(2) Passes, or attempts to pass, as true and genuine, any false, forged, or counterfeit disabled person placard knowing it to be false, forged, or counterfeited.

(3) Acquires, possesses, sells, or offers for sale a genuine or counterfeit disabled person placard.

(c) Every person who, with fraudulent intent, displays or causes or permits to be displayed any forged, counterfeit, or false disabled person placard, is guilty of a misdemeanor, and upon conviction thereof shall be punished by imprisonment in the county jail for six months or by a fine of not less than five hundred dollars ($500) or more than one thousand dollars ($1,000), or by both that fine and imprisonment, which penalty shall not be suspended.

(d) For purposes of subdivision (b) or (c), "disabled person placard" means a placard issued pursuant to Section 22511.5 or 22511.9.

SEC. 2. Section 10752 of the Vehicle Code is amended to read:

10752. (a) No person shall, with intent to prejudice, damage, injure, or defraud, acquire, possess, sell, or offer for sale any genuine or counterfeit manufacturer's serial or identification number from or for, or purporting to be from or for, a vehicle or component part thereof.

(b) No person shall, with intent to prejudice, damage, injure, or defraud, acquire, possess, sell, or offer for sale any genuine or counterfeit serial or identification number issued by the department, the Department of the California Highway Patrol, or the vehicle registration and titling agency of any foreign jurisdiction which is from or for, or purports to be from or for, a vehicle or component part thereof.

(c) Every person convicted of a violation of subdivision (a) or (b) 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 two hundred fifty dollars ($250) nor more than five thousand dollars ($5,000).

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 624

An act to amend Section 11535 of the Insurance Code, relating to insurance.

[Approved by Governor September 16, 1985. Filed with Secretary of State September 17, 1985.]

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

SECTION 1. Section 11535 of the Insurance Code is amended to read:

11535. (a) 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.

(b) A domestic incorporated mutual insurer not referred to in subdivision (a) may be converted into an incorporated stock insurer.

To that end it may provide and carry out a plan for the conversion by complying with the requirements of this chapter.

CHAPTER 625

An act to amend Sections 4003.5 and 9258.5 of the Vehicle Code, relating to trip permits.

[Approved by Governor September 16, 1985. Filed with Secretary of State September 17, 1985.]

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

SECTION 1. Section 4003.5 of the Vehicle Code is amended to read:

4003.5. (a) Upon payment of the fee specified in Section 9258.5, the department shall issue to a manufacturer or dealer a one-trip permit authorizing a new trailer or semitrailer which has never been registered in any state, or a used trailer or semitrailer which is not currently registered in this state, to be moved or operated laden within, entering, or leaving this state for not more than five days as part of one continuous trip from the place of manufacture for a new vehicle, or from the place of dispatch or entry into this state for a used vehicle, to a place where the vehicle will be offered for sale.

(b) Any permit issued pursuant to this section authorizes the operation of a single trailer or semitrailer, and the permit shall identify the trailer or semitrailer authorized by make, model, and vehicle identification number. The permit shall include the name and license number of the manufacturer from whom the new vehicle is sent, or the name and license number of the dealer from whom the used vehicle is sent, the name and address of the person or business receiving the load, a description of the load being carried, and the name and license number of the dealer who will be offering the trailer or semitrailer for sale. Each permit shall be completed prior to operation of the trailer or semitrailer on a highway. The permit shall be carried on the trailer or semitrailer 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 is 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.

(c) The privilege of securing and displaying a permit authorized pursuant to this section shall not be extended to a manufacturer, carrier, or dealer located in a jurisdiction with which the state does not have vehicle licensing reciprocity.

SEC. 2. Section 9258.5 of the Vehicle Code is amended to read:

9258.5. A fee of thirty-five dollars ($35) shall be paid to the department for each one-trip permit issued pursuant to Section

4003.5.

SEC. 3. No reimbursement is required by this act pursuant to 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 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 626

An act to amend Section 6241.1 of the Harbors and Navigation Code, relating to port districts.

[Approved by Governor September 16, 1985. Filed with Secretary of State September 17, 1985]

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

SECTION 1. Section 6241.1 of the Harbors and Navigation Code is amended to read:

6241.1. Port districts in Ventura County shall be governed by a board of port commissioners consisting of five members appointed by the mayor of the municipal corporation in the district, with the approval of the city council.

The chairperson of the board shall be elected by the commissioners for a term of two years. An auditor shall be appointed by the board with the approval of the city council.

After a public hearing, the city council may remove commissioners from office during their term for cause by a vote of not less than five members of the city council.

CHAPTER 627

An act to add Section 33298 to, to add Article 4 (commencing with Section 34301) to Chapter 9 of Part 1 of Division 15 of, and to repeal Article 16 (commencing with Section 62271) of Chapter 2 of Part 3 of Division 21 of, the Food and Agricultural Code, relating to milk.

[Approved by Governor September 16, 1985 Filed with Secretary of State September 17, 1985.]

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

SECTION 1. Section 33298 is added to the Food and Agricultural Code, to read:

33298. The director shall establish plan review fees for sanitary design and construction review activities relating to milk product

plants and frozen milk product plants pursuant to Chapter 6 (commencing with Section 33701). The fees shall not exceed the actual direct costs required to perform sanitary design and construction plan checks. Any money collected by the director pursuant to this section shall be paid into the Department of Food and Agriculture Fund.

SEC. 2. Article 4 (commencing with Section 34301) is added to Chapter 9 of Part 1 of Division 15 of the Food and Agricultural Code, to read:

Article 4. Testing, Weighing, and Sampling

34301. The director shall supervise the testing of milk fat and milk solids not fat, and the weighing and sampling of market milk delivered to handlers.

The director may, in order to effectuate the purposes of this article, assess all producers, producer-handlers, and handlers a fee which shall be used exclusively for the supervision and checking the corrections of the milk fat, milk solids not fat, and bacteriological tests, and the weighing and sampling of all market milk delivered to handlers in accordance with the stabilization and marketing plans established pursuant to Division 21 (commencing with Section 58001).

34302. (a) Every handler subject to any stabilization and marketing plan established pursuant to Division 21 (commencing with Section 58001), including a producer-handler, shall deduct an assessment from payments made to producers for market milk, including the handler's own production, a sum not to exceed one-tenth of one cent ($0.001) per hundredweight of market milk.

The amount of the assessment so deducted shall be paid to the director on or before the 45th day following the last day of the month during which the market milk was received.

(b) Every handler subject to the provisions of any stabilization and marketing plan that purchases or handles milk from producers, including the handler's own production, if any, shall pay a fee not to exceed five-hundredths of one cent ($0.0005) per hundredweight of market milk.

The amount of the fee shall be paid to the director on or before the 45th day following the last day of the month in which the market milk was received.

34303. The director shall annually fix the fees in Section 34302 in an amount not to exceed the actual directly related costs for the supervision and checking required by Section 34301. These costs shall be determined annually from time records and audit procedures set forth in written findings. The written findings shall be available to interested persons for examination.

The director may fix the rate of assessments or fees required by Section 34302 at lesser amounts and may adjust the rates of assessments or fees from time to time whenever he or she finds that

the costs of administering this article can be defrayed from the revenues derived from lower rates. However, the rate of assessment deducted from the payments to producers for market milk, including the handler's own production, and the rate of fees paid by handlers shall at all times be in the ratio of 2 to 1.

The amount of the fee shall be paid to the director on or before the 45th day following the last day of the month in which the market milk was received.

34304. Any assessment or fee payable pursuant to this article is a debt of the person by whom the assessment or fee is payable and is due and payable to the director upon the date set forth in Section 34302. If the person does not pay the assessment or fee by the required date, the director may file a complaint against the person in a court of competent jurisdiction for the collection of the assessment or fee.

If any person does not pay to the director the assessments or fees provided in this article on or before the due date specified in Section 34302, the director may add to the unpaid assessments or fees an amount not exceeding 10 percent of the unpaid assessments or fees.

SEC. 3. Article 16 (commencing with Section 62271) of Chapter 2 of Part 3 of Division 21 of the Food and Agricultural Code is repealed.

SEC. 4. No reimbursement is required by this act pursuant to 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 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 628

An act relating to corrections.

[Approved by Governor September 16, 1985. Filed with Secretary of State September 17, 1985.]

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

SECTION 1. The Legislature finds and declares that a program of solid waste management contributes to the conservation of the state's resources.

The California Department of Corrections shall, in consultation with the Waste Management Board, study the feasibility of establishing a prison program for the express purpose of training and employing inmates in the salvaging and recycling of waste products. The term "salvaging" means, but is not necessarily restricted to, the reclaiming of paper, glass, wood, and ferrous and nonferrous metals commonly found in waste materials.

The term "recycling" means, but is not necessarily restricted to, converting waste products into energy producing material.

The Department of Corrections shall report its findings to the Legislature by January 1, 1987.

CHAPTER 629

An act to amend Sections 12723 and 12724 of, and to add Section 12726 to, the Health and Safety Code, relating to fireworks.

[Approved by Governor September 16, 1985 Filed with Secretary of State September 17, 1985]

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

SECTION 1. Section 12723 of the Health and Safety Code is amended to read:

12723. The authority seizing any fireworks under the provisions of this chapter shall notify the State Fire Marshal not more than three days following the date of seizure and shall state the reason for the seizure and the quantity, type, and location of the fireworks. Any fireworks, with the exception of dangerous fireworks, seized pursuant to Section 12721 shall be disposed of by the State Fire Marshal in the manner prescribed by the State Fire Marshal at any time subsequent to 60 days from the seizure or 10 days from the final termination of proceedings under the provisions of Section 12593 or Section 12724, whichever is later. Dangerous fireworks shall be disposed of according to procedures in Sections 12724 and 12726. Any fireworks seized by any authority as defined in this chapter, other than the State Fire Marshal or his or her salaried assistants, shall be held in trust for the State Fire Marshal by that authority.

SEC. 2. Section 12724 of the Health and Safety Code is amended to read:

12724. (a) Any person whose fireworks are seized under the provisions of this chapter may, within 10 days after seizure, petition the State Fire Marshal to return the fireworks seized upon the ground that the fireworks were illegally or erroneously seized. Any petition filed pursuant to this section shall be considered by the State Fire Marshal within 15 days after filing or after a hearing granted to the petitioner, if requested. The State Fire Marshal shall advise the petitioner of his or her decision in writing. The determination of the State Fire Marshal is final unless within 60 days after seizure an action is commenced in a court of competent jurisdiction in the State of California for the recovery of the fireworks seized pursuant to this part, except as provided in subdivision (b).

(b) The determination of the State Fire Marshal is final in the case of the seizure of dangerous fireworks, unless within 20 days after the notice of the determination is mailed to the petitioner an action is

commenced in a court of competent jurisdiction in the State of California for the recovery of the fireworks seized pursuant to this part.

SEC. 3. Section 12726 is added to the Health and Safety Code, to read:

12726. The dangerous fireworks seized pursuant to this part shall be disposed of by the State Fire Marshal in the manner prescribed by the State Fire Marshal at any time after the final determination of proceedings under Section 12724, or upon final termination of proceedings under Section 12593, whichever is later. If no proceedings are commenced pursuant to Section 12724, the State Fire Marshal may dispose of the fireworks after all of the following requirements are satisfied:

(a) A random sampling of the dangerous fireworks has been taken, as defined by regulations adopted by the State Fire Marshal pursuant to Section 12552.

(b) The analysis of the random sampling has been completed.

(c) Photographs have been taken of the dangerous fireworks to be destroyed.

(d) The State Fire Marshal has given written approval for the destruction of the dangerous fireworks. This approval shall specify the total weight of the dangerous fireworks seized, the total weight of the dangerous fireworks to be destroyed, and the total weight of the dangerous fireworks not to be destroyed.

CHAPTER 630

An act to amend Section 11166 of the Health and Safety Code, relating to controlled substances.

[Approved by Governor September 16, 1985. Filed with Secretary of State September 17, 1985]

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

SECTION 1. Section 11166 of the Health and Safety Code is amended to read:

11166. No person shall fill a prescription for a controlled substance classified in Schedule II which is tendered to him after the seventh day following the date of issue. No person shall knowingly fill a mutilated or forged or altered prescription for a controlled substance except for the addition of the address of the person for whom the controlled substance is prescribed as provided by paragraph (3) of subdivision (b) of Section 11164.

SEC. 2. No reimbursement is required by this act pursuant to 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 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 631

An act relating to the medical assistance program.

[Approved by Governor September 16, 1985 Filed with Secretary of State September 17, 1985.]

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

SECTION 1. The Controller shall review the procedures for the disbursement of Medi-Cal provider reimbursement payments to determine if the process can be expedited and report the findings and recommendations to the Chairpersons of the Senate Committee on Health and Human Services and the Assembly Committee on Health by January 1, 1986.

CHAPTER 632

An act to amend Section 18930 of, and to add Section 18928 to, the Health and Safety Code, relating to building standards.

[Approved by Governor September 16, 1985 Filed with Secretary of State September 17, 1985.]

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

SECTION 1. Section 18928 is added to the Health and Safety Code, to read:

18928. Any state agency adopting a model code shall:

(a) Reference the most recent edition of applicable model codes.

(b) Adopt the most recent editions of the model codes, as amended by the adopting agency, within one year after the date of publication of the model codes. The "date of publication of a model code" is either of the following:

(1) The date of publication for the first edition of the model code printed in the model code. If only a month and year are shown by the model code adopting agency or body, the date of publication shall be considered to be the last day of the month shown.

(2) If no publication date is shown in the model code, the commission shall determine the earliest date when copies of the model code are available to the adopting agencies. The "publication date of a model code" shall be the date so determined by the commission. The commission shall notify all adopting agencies of its determination within 15 days.

SEC. 2. Section 18930 of the Health and Safety Code is amended to read:

18930. (a) Any building standard adopted by state agencies shall be submitted, to and approved by, the State Building Standards Commission prior to codification. In order to accomplish this task, building standards adopted by state agencies and submitted to the commission for approval shall be accompanied by an analysis written by the adopting agency which shall, to the satisfaction of the commission, justify the approval thereof in terms of the following criteria:

(1) The proposed building standard does not conflict with, overlap, or duplicate other building standards.

(2) The proposed building standard is within the parameters established by enabling legislation and is not expressly within the exclusive jurisdiction of another agency.

(3) The public interest requires the adoption of the building standards.

(4) The proposed building standard is not unreasonable, arbitrary, unfair, or capricious, in whole or in part.

(5) The cost to the public is reasonable based on the overall benefit to be derived from the building standards.

(6) The proposed building standard is not unnecessarily ambiguous or vague, in whole or in part.

(7) (A) The applicable national specifications, published standards, and model codes have been incorporated therein as provided in this part, where appropriate.

(B) If a national specification, published standard, or model code does not adequately address the goals of the state agency, a statement defining the inadequacy shall accompany the proposed building standard when submitted to the commission.

(C) If there is no national specification, published standard, or model code that is relevant to the proposed building standard, the state agency shall prepare a statement informing the commission and submit that statement with the proposed building standard.

(8) The format of the proposed building standards is consistent with that adopted by the commission.

(9) The proposed building standard, if intended to promote fire and panic safety, has the written approval of the State Fire Marshal.

(b) In reviewing building standards submitted for its approval, the commission shall consider only the following:

(1) Except as provided in subdivision (b) of Section 11342.3 of the Government Code, the record of the proceedings of the adopting agency.

(2) The evidence submitted to, and considered by, the adopting agency.

(c) The commission shall give great weight to the determinations and analysis of the adopting agency on each of the criteria for approval set forth in subdivision (a). Any factual determinations of the adopting agency shall be considered conclusive by the

commission unless the commission specifically finds, and sets forth its reasoning in writing, that such factual determination is arbitrary and capricious or substantially unsupported by the evidence considered by the adopting agency.

Whenever the commission makes such a finding, it shall return the standard to the adopting agency for a reexamination of its original determination of the disputed fact.

(d) Whenever a building standard is principally intended to protect the public health and safety, its adoption shall not be a "factual determination" for purposes of subdivision (c). Whenever a building standard is principally intended to conserve energy or other natural resources, the commission shall consider or review the cost to the public or benefit to be derived as a "factual determination" pursuant to subdivision (c). Whenever a building standard is intended to promote fire and panic safety, the commission shall, unless adopted by the State Fire Marshal, submit the building standard to the State Fire Marshal for prior approval.

(e) Whenever the commission finds, pursuant to paragraph (2) of subdivision (a), that a building standard is adopted by an adopting agency pursuant to statutes requiring adoption of the building standard, the commission shall not consider or review whether the adoption is in the public interest pursuant to paragraph (3) of subdivision (a).

CHAPTER 633

An act to add Section 76121 to, and Article 3 (commencing with Section 89320) to Chapter 3 of Part 55, Article 5 (commencing with Section 92640) to Chapter 6 of Part 57, and Chapter 3.2 (commencing with Section 94355) to Part 59 of, the Education Code, relating to education.

[Approved by Governor September 16, 1985 Filed with Secretary of State September 17, 1985.]

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

SECTION 1. Section 76121 is added to the Education Code, to read:

76121. The governing board of each community college district shall require each community college maintained by the district, in administering any test or examination, to permit any student who is eligible to undergo the test or examination to do so, without penalty, at a time when that activity would not violate the student's religious creed. This requirement shall not apply in the event that administering the test or examination at an alternate time would impose an undue hardship which could not reasonably have been avoided. In any court proceeding in which the existence of an undue

hardship which could not reasonably have been avoided is an issue, the burden of proof shall be upon the institution.

SEC. 2. Article 3 (commencing with Section 89320) is added to Chapter 3 of Part 55 of the Education Code, to read:

Article 3. Accommodation of Religious Creed

89320. The Trustees of the California State University shall require each state university, in administering any test or examination, to permit any student who is eligible to undergo the test or examination to do so, without penalty, at a time when that activity would not violate the student's religious creed. This requirement shall not apply in the event that administering the test or examination at an alternate time would impose an undue hardship which could not reasonably have been avoided. In any court proceeding in which the existence of an undue hardship which could not reasonably have been avoided is an issue, the burden of proof shall be upon the institution.

SEC. 3. Article 5 (commencing with Section 92640) is added to Chapter 6 of Part 57 of the Education Code, to read:

Article 5. Accommodation of Religious Creed

92640. (a) It is the request of the Legislature that the Regents of the University of California develop policies and procedures to ensure that each campus of the university, in administering any test or examination, shall permit any student who is eligible to undergo the test or examination to do so, without penalty, at a time when that activity would not violate the student's religious creed. This requirement shall not apply in the event that administering the test or examination at an alternate time would impose an undue hardship which could not reasonably have been avoided. In any court proceeding in which the existence of an undue hardship which could not reasonably have been avoided is an issue, the burden of proof shall be upon the institution.

(b) It is further requested that the regents report to the Legislature, no later than six months after the effective date of this section, regarding any actions taken to implement this section.

SEC. 4. Chapter 3.2 (commencing with Section 94355) is added to Part 59 of the Education Code, to read:

CHAPTER 3.2. ACCOMMODATION OF RELIGIOUS CREED

94355. (a) As a condition of doing business in this state, each postsecondary educational institution governed by Chapter 3 (commencing with Section 94300) of Part 59, and each organization that administers educational testing for use in the admissions process by any public or private postsecondary educational institution, shall, in administering any test or examination, permit any student who is

eligible to undergo the test or examination to do so, without penalty, at a time when that activity would not violate the student's religious creed.

(b) This requirement shall not apply in the event that administering the test or examination at an alternate time would impose an undue hardship which could not reasonably have been avoided. In any court proceeding in which the existence of an undue hardship which could not reasonably have been avoided is an issue, the burden of proof shall be upon the institution.

SEC. 5. Reimbursement to local agencies and school districts for costs mandated by the state pursuant to this act shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code and, if the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), shall be made from the State Mandates Claims Fund.

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.

CHAPTER 634

An act to repeal and add Section 3359 of the Financial Code, relating to banks.

[Approved by Governor September 16, 1985 Filed with Secretary of State September 17, 1985]

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

SECTION 1. Section 3359 of the Financial Code is repealed.

SEC. 2. Section 3359 is added to the Financial Code, to read:

3359. (a) For purposes of this section, the following terms have the following meanings:

(1) "Carrying a security" means maintaining, reducing, or retiring indebtedness originally incurred to acquire a security.

(2) "Controlling person" has the same meaning specified in Section 700.

(3) "Security" has the following meanings:

(A) When used with respect to a bank, "security" has the same meaning set forth in subdivision (c) of Section 690.

(B) When used with respect to any other person, "security" has the same meaning set forth in Section 25019 of the Corporations Code.

(b) No bank shall acquire, hold, extend credit on the security of, or extend credit for the purpose of acquiring or carrying, any security of the bank or of any controlling person of the bank.

(c) (1) Any bank which acquires or holds securities in violation of this section shall be liable to the people of this state for twice the market, book, or face value of the securities, whichever is greatest.

(2) Any bank which extends credit in violation of this section shall be liable to the people of this state for twice the amount of the credit so extended.

(d) This section does not apply to any of the following transactions:

(1) Any acquisition or extension of credit by a bank which is necessary to reduce or prevent loss to the bank on debts previously contracted in good faith.

(2) Any redemption by a bank of any of its redeemable shares in accordance with applicable provisions of this division and of Division 1 (commencing with Section 100) of Title 1 of the Corporations Code.

CHAPTER 635

An act to amend Sections 1580 and 1584 of the Fish and Game Code, relating to ecological reserves, and making an appropriation therefor.

[Approved by Governor September 16, 1985. Filed with Secretary of State September 17, 1985.]

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

SECTION 1. Section 1580 of the Fish and Game Code is amended to read:

1580. The Legislature hereby declares that the policy of the state is to protect threatened or endangered native plants, wildlife, or aquatic organisms or specialized habitat types, both terrestrial and aquatic, or large heterogeneous natural marine gene pools for the future use of mankind through the establishment of ecological reserves. For the purpose of establishing those ecological reserves, the department, with the approval of the commission, may obtain, accept on behalf of the state, acquire, or control, by purchase, lease, easement, gift, rental, memorandum of understanding, or otherwise, and occupy, develop, maintain, use, and administer land, or land and water, or land and water rights, suitable for the purpose of establishing ecological reserves. Any property obtained, accepted, acquired, or controlled by the department pursuant to the provisions of this article may be designated by the commission as an ecological reserve. The commission may adopt regulations for the occupation, use, operation, protection, enhancement, maintenance, and administration of ecological reserves. The ecological reserves shall not be classified as wildlife management areas pursuant to Section 1504 and shall be exempt from Section 1504.

SEC. 2. Section 1584 of the Fish and Game Code is amended to read:

1584. As used in this article, "ecological reserve" means land or land and water areas which are designated as an ecological reserve by the commission pursuant to Section 1580 and which are to be preserved in a natural condition for the benefit of the general public to observe native flora and fauna and for scientific study.

CHAPTER 636

An act to amend and renumber Section 13305 of the Government Code, relating to fiscal affairs.

[Approved by Governor September 16, 1985. Filed with Secretary of State September 17, 1985]

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

SECTION 1. Section 13305 of the Government Code is amended and renumbered to read:

13306. The Department of Finance, with the concurrence of the Controller, may establish additional funds as are necessary to properly manage and account for the financial activities and resources of the state, provided that only the minimum number of funds necessary to comply with legal requirements, "Generally Accepted Accounting Principles," and effective financial administration shall be established.

Because complete conformance to "Generally Accepted Accounting Principles" may be impractical or not authorized, the Department of Finance is authorized to deviate from them if conformance would not be in the best interests of the state; provided, however, that the department notifies the Controller of additional major deviations and the Controller agrees with the deviations prior to implementation.

The Department of Finance shall notify the Joint Legislative Budget Committee when major changes are proposed to the accounting system to bring it into conformance to "Generally Accepted Accounting Principles." The notification shall include an estimate of the fiscal effect of the major changes being proposed.

CHAPTER 637

An act to add and repeal Chapter 3.7 (commencing with Section 13827) to Title 6 of Part 4 of the Penal Code, relating to sex offenders, and making an appropriation therefor.

[Approved by Governor September 16, 1985. Filed with Secretary of State September 17, 1985]

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

SECTION 1. Chapter 3.7 (commencing with Section 13827) is added to Title 6 of Part 4 of the Penal Code, to read:

CHAPTER 3.7. JUVENILE SEX OFFENDERS

13827. This chapter shall be known and may be cited as the Juvenile Sex Offender Treatment Act of 1985.

13827.1. From any funds appropriated therefor, the Office of Criminal Justice Planning shall establish a pilot program to provide treatment to juvenile sex offenders declared to be wards of the juvenile court pursuant to Section 602 of the Welfare and Institutions Code, but who are not committed to the Youth Authority. The pilot programs shall be established for a four-year period in up to three counties. The counties shall be selected from among those counties submitting applications to the office requesting to be selected to participate in the program, based on a determination that the counties would be capable of establishing such a program. Capability may be demonstrated by current county efforts to provide treatment programs to juvenile sex offenders.

The participating counties shall be selected by May 1, 1986. The pilot programs shall be operational by July 1, 1986 and shall terminate on July 1, 1990.

13827.2. A county that applies to participate in the program established by this chapter shall demonstrate the following in its application for participation:

(a) Identification of the need for a juvenile sex offender treatment program.

(b) Evidence that the county agency providing mental health services, the county agency providing public assistance, the district attorney, the juvenile court, the probation department, private entities, and local school districts are participating in and coordinating case referral, case management, and service delivery to the persons whom they serve.

13827.3. Notwithstanding any other provision of law, in a county in which a pilot program is established, on and after the date of the establishment of that program, any person who is adjudged to be a ward of the juvenile court pursuant to Section 602 of the Welfare and Institutions Code on the basis of the violation of Section 261, 264.1, 266, 285, 286, 288, 288a, or 289, and who is not committed to the Youth Authority, shall be ordered to participate in the treatment services provided by the pilot program.

13827.4. The county agency providing mental health services in a county participating in the pilot program shall assign a counselor to any person described in Section 13827.3. Any counselor so assigned

shall be qualified to treat juvenile sex offenders, as determined by the county in conjunction with the Office of Criminal Justice Planning.

13827.5. To the extent that funds are appropriated therefor, the state shall reimburse a county for all costs incurred in conducting a pilot program established pursuant to this chapter.

13827.6. On or before January 1, 1991, the Office of Criminal Justice Planning shall submit a written report to the Legislature containing all of the following information:

(a) The number of juveniles that participated in the program.

(b) The costs of the pilot programs.

(c) The nature of the treatment provided to participants in the programs.

(d) The results of the treatment provided to participants in the programs, including data concerning recidivism by participants and any other nonsexually-related criminal offenses committed by participants.

(e) The results of combining intrafamily and pedophile treatment.

13827.7. Counties selected to participate in the pilot program shall utilize any funds available from public and private sources for the purposes of the program and existing treatment services prior to utilizing state funds allocated for the purposes of the pilot program.

SEC. 2. This act 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. 3. The sum of five hundred thousand dollars ($500,000) is hereby appropriated from the General Fund to the Office of Criminal Justice Planning for expenditure during 1986 for the purposes of this act. No more than 10 percent of that amount may be expended for administrative purposes.

CHAPTER 638

An act to add Article 5 (commencing with Section 975) to Chapter 5 of Division 4 of the Military and Veterans Code, relating to veterans.

[Approved by Governor September 16, 1985. Filed with Secretary of State September 17, 1985]

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

SECTION 1. Article 5 (commencing with Section 975) is added to Chapter 5 of Division 4 of the Military and Veterans Code, to read:

Article 5. Veterans' Affairs Commissions

975. The board of supervisors of any county may create and appoint members to a veterans' affairs commission either as an independent agency or in conjunction with a California National Guard members' commission or a veterans' memorial commission, or in any combination of these commissions.

CHAPTER 639

An act to add Section 33333.4 to the Health and Safety Code, relating to redevelopment.

[Approved by Governor September 16, 1985 Filed with Secretary of State September 17, 1985]

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

SECTION 1. Section 33333.4 is added to the Health and Safety Code, to read:

33333.4. (a) Every legislative body which adopted a final redevelopment plan prior to October 1, 1976, that contains the provisions set forth in Section 33670 but which does not contain all of the limitations required by Section 33333.2, shall adopt an ordinance on or before December 31, 1986, which contains all of the following:

(1) A limitation on the number of dollars of taxes which may be divided and allocated to the redevelopment agency pursuant to the plan. Taxes shall not be divided and shall not be allocated to the redevelopment agency beyond that limitation.

(2) A time limit on the establishing of loans, advances, and indebtedness to finance in whole, or in part, the redevelopment project. No loans, advances, or indebtedness to be repaid from the allocation of taxes shall be established or incurred by the agency beyond the time limitation.

(3) A time limit, not to exceed 12 years, for commencement of eminent domain proceedings to acquire property within the project area.

(b) The limitations established in the ordinance adopted pursuant to this section shall apply to the redevelopment plan as if the redevelopment plan had been amended to include those limitations. However, in adopting the ordinance, neither the legislative body nor the agency is required to comply with Article 12 (commencing with Section 33450) or any other provision of this part relating to the amendment of redevelopment plans.

(c) This section shall not be construed to allow the impairment of any obligation or indebtedness incurred by the legislative body or the agency pursuant to this part.

(d) The limitations established in the ordinance by the legislative body shall be final and conclusive. The Legislature finds and declares that this is necessary because redevelopment agencies with project areas established prior to October 1, 1976, have incurred existing obligations and indebtedness and have adopted projects, programs, and activities with the authority to receive and pledge the entire allocation of taxes authorized by Section 33670 and that it is necessary to protect against the possible impairment of existing obligations and indebtedness and to allow the completion of adopted projects and programs.

(e) The ordinance adopted by the legislative body in compliance with this section does not relieve any agency of its obligations under Section 33334.2, 33334.3, Article 9 (commencing with Section 33410), or any other requirement contained in this part.

SEC. 2. No reimbursement shall be made from the State Mandates Claims Fund pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code for costs mandated by the state pursuant to this act. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Part 7 (commencing with Section 17500) and any other provisions of law.

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 640

An act to amend Section 37001 of the Education Code, relating to schools.

[Approved by Governor September 16, 1985 Filed with Secretary of State September 17, 1985]

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

SECTION 1. Section 37001 of the Education Code is amended to read:

37001. Whenever the governing board of a school district is unable to maintain the school or schools in the district because of its inability to secure a teacher or teachers, or because of lack of facilities, the board may maintain the school or schools of the district elsewhere than within the district or contract for the education of the pupils of the school or schools with the governing board of another district. In addition, the board may maintain one or more regular day schools in an adjacent district, pursuant to contract with the governing board of that district, as necessary to permit a more efficient use of all existing and planned school facilities in the

geographical area in which the districts are located.

CHAPTER 641

An act to amend and repeal Section 10473 of the Business and Professions Code, relating to real estate licensees.

[Approved by Governor September 16, 1985. Filed with Secretary of State September 17, 1985]

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

SECTION 1. Section 10473 of the Business and Professions Code is amended to read:

10473. Whenever the court proceeds upon an application as set forth in Section 10471, it shall order payment out of the Recovery Account only upon a determination that the aggrieved party has a valid cause of action within the purview of Section 10471 and has complied with Section 10472.

The commissioner may defend any such action on behalf of the Recovery Account and shall have recourse to all appropriate means of defense and review, including examination of witnesses and the right to relitigate any issues, material and relevant in the proceeding against the Recovery Account, which were determined in the underlying action on which the judgment in favor of the applicant was based. If the judgment in favor of the applicant was by default, stipulation, or consent, or was pursuant to Section 594 of the Code of Civil Procedure, or whenever the action against the licensee was defended by a trustee in bankruptcy, the applicant shall have the burden of proving that the cause of action against the licensee was for fraud, misrepresentation, deceit, or conversion of trust funds. Otherwise, the judgment shall create a rebuttable presumption of the fraud, misrepresentation, deceit, or conversion of trust funds by the licensee, which presumption shall affect the burden of producing evidence.

The commissioner may move the court at any time to dismiss the application when it appears there are no triable issues and the petition is without merit. The motion may be supported by affidavit of any person or persons having knowledge of the facts, and may be made on the basis that the petition, and the judgment referred to therein, does not form the basis for a meritorious recovery claim within the purview of Section 10471; provided, however, the commissioner shall give written notice at least 10 days before such motion.

The commissioner may, subject to court approval, compromise a claim based upon the application of an aggrieved party. He shall not be bound by any prior compromise or stipulation of the judgment debtor.

If Senate Bill No. 512 of the 1985–86 Regular Session is enacted and repeals this article operative January 1, 1987, this section shall remain in effect only until January 1, 1987, and as of that date is repealed.

CHAPTER 642

An act to amend Sections 44701, 44703, and 44704 of the Education Code, relating to schools.

[Approved by Governor September 16, 1985 Filed with Secretary of State September 17, 1985]

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

SECTION 1. Section 44701 of the Education Code is amended to read:

44701. Any teacher eligible to receive an instructional improvement grant, or any group of eligible teachers, may submit a grant proposal to the grant committee established pursuant to Section 44702.

Each grant recipient shall be a full-time teacher or mentor teacher whose primary duty is classroom instruction.

SEC. 2. Section 44703 of the Education Code is amended to read:

44703. (a) The governing board of any school district which applies to the Superintendent of Public Instruction for funding pursuant to this chapter shall review the recommendations of the grant committee and make the final decision on awards of grant funds for purposes of this chapter. The governing board shall award grants so as to improve instruction in those areas of the district with greatest need.

The governing board may award for any grant proposal submitted by an individual teacher any amount not in excess of two thousand dollars ($2,000) per fiscal year. The governing board may award for any grant proposal submitted by a group of teachers any amount not in excess of two thousand dollars ($2,000) per fiscal year for each eligible teacher in the group.

(b) The governing board shall annually certify to the Superintendent of Public Instruction the number of instructional improvement grants awarded and the aggregate amount of money awarded for the grants and may include a request for reimbursement for administrative costs of this chapter in an amount not to exceed 5 percent of the district's entitlement for funding computed pursuant to subdivision (b) of Section 44704.

SEC. 3. Section 44704 of the Education Code is amended to read:

44704. (a) On or before March 1 of each year, the State Department of Education shall report to the fiscal committee of each house of the Legislature the number of teachers eligible for instructional improvement grants, as specified in Section 44701, in

each district for the then current fiscal year. It is the intent of the Legislature that the Budget Act for each fiscal year appropriate funds for purposes of this chapter in an amount equal to 5 percent of the number of permanent full-time teachers, exclusive of teachers in adult education, child care and development, and regional occupational centers and programs, multiplied by two thousand dollars ($2,000).

(b) The Superintendent of Public Instruction shall compute each fiscal year for each school district, an entitlement equal to 5 percent of the number of permanent, full-time teachers, exclusive of teachers in adult education, child care and development, and regional occupational centers and programs, multiplied by two thousand dollars ($2,000). The superintendent shall apportion to each school district from funds appropriated for the purposes of this chapter in that fiscal year, the amount certified by the governing board pursuant to Section 44703, but not in excess of the district's entitlement.

In the event that, in any fiscal year, sufficient funds are not appropriated to fully fund each school district requesting apportionments for purposes of this chapter, the superintendent shall reduce each district's apportionment on a pro rata basis.

SEC. 4. Sections 1, 2, and 3 of this act shall become operative on July 1, 1986.

CHAPTER 643

An act to repeal Section 7 of Chapter 1509 of the Statutes of 1984, relating to health, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 16, 1985 Filed with Secretary of State September 17, 1985]

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

SECTION 1. Section 7 of Chapter 1509 of the Statutes of 1984 is repealed.

SEC. 2. Section 1 shall be deemed to be operative January 1, 1985.

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

Existing law requires the State Department of Health Services and the negotiator to adopt emergency regulations necessary to implement this act. In order to require, instead, that as of January 1, 1985, these regulations be subject to the regular procedures for the adoption of administrative regulations, it is necessary that this act take effect immediately.

CHAPTER 644

An act to add Section 21051.3 to the Food and Agricultural Code, relating to cattle, and making an appropriation therefor.

[Approved by Governor September 16, 1985. Filed with Secretary of State September 17, 1985]

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

SECTION 1. Section 21051.3 is added to the Food and Agricultural Code, to read:

21051.3. (a) Any person who moves or transports any animal without inspection, as required by this chapter, is liable to the director for a civil penalty in the amount of the expenses incurred by the director to investigate and prosecute the violation and, if the violation involved the unlawful taking of animals, the expenses incurred by the director to recover and return the animal or animals to their owner.

(b) If the director finds that a violation of subdivision (a) has occurred, he or she shall calculate the amount of the civil penalty and make demand for payment within 30 days thereof. The respondent may deny liability in whole or in part, in which case the director shall set the matter for hearing before a hearing officer of the department or, at the director's discretion, pursuant to Section 11502 of the Government Code. The hearing procedure under this subdivision shall be conducted pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(c) The respondent may petition for judicial review of the director's determination to assess a civil penalty pursuant to Section 1094.5 of the Code of Civil Procedure by filing an action within 30 days of the date of service of the director's decision.

(d) The civil penalty in this section is in addition to any other civil or criminal penalties provided by law.

(e) Any funds collected pursuant to this section shall be paid into the Department of Food and Agriculture Fund.

CHAPTER 645

An act to amend Sections 36060, 36063, 36447.11, 36447.12, and 36447.13 of, and to add Section 36063.5 to, the Water Code, relating to California water districts, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 16, 1985 Filed with Secretary of State September 17, 1985]

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

SECTION 1. Section 36060 of the Water Code is amended to read:

36060. This article applies only to the Irvine Ranch, Moulton-Niguel, and Santa Margarita Water Districts. "District" as used in this article means the Irvine Ranch Water District, the Moulton-Niguel Water District, or the Santa Margarita Water District.

SEC. 2. Section 36063 of the Water Code is amended to read:

36063. (a) Whenever the board of directors determines that prudent management of the fiscal affairs of the district so requires, it may refund by defeasing or calling for redemption any outstanding bonds, subject to all of the following:

(1) The last-maturing refunding bonds shall mature not later than the date on which the last-maturing bonds being refunded would have matured.

(2) Refunding bonds shall not be issued unless the total interest cost to maturity of the refunding bonds added to the principal amount of those refunding bonds will be less than the total interest cost to maturity of the bonds being refunded added to the principal amount of the bonds being refunded. If any of the refunding bonds or the bonds being refunded, or both, bear or may bear interest at a variable rate, thereby making the actual total interest cost to maturity indeterminable in advance of maturity, the determination required by this paragraph may consist of a finding made by the board based on substantial evidence, which means evidence that is reasonable, credible, and of solid value and ponderable legal significance, based upon the record as a whole. The test in Section 53552 of the Government Code need not be met if the determination in this paragraph is made.

(3) The savings achieved through the refunding of bonds shall be used by the board of directors solely to reduce the assessments or charges, or both, which are fixed and collected for the payment of principal of, and interest on, the refunding bonds. The reductions to reflect the savings in any fiscal year shall be made not later than the next succeeding fiscal year.

(b) The refunding bonds shall be issued according to Article 9 (commencing with Section 53550) of Chapter 3 of Part 1 of Division 2 of Title 5 of the Government Code.

(c) When the originally issued bonds have been refunded, the refunding bonds shall thereafter take the place of, and be deemed for all purposes to be, the bonds corresponding to the portion of the authorization by the voters from which the refunded bonds were originally issued and shall be payable from the same funds as those refunded bonds. Following the refunding, the same portion of the corresponding voter authorization as was previously canceled by issuance of the refunded bonds shall remain canceled and shall be deemed to be the amount of indebtedness issued from the voter

authorization representing the refunding bonds. However, refunding bonds issued under this section shall be used only for the purpose of reducing debt service costs on bonds issued from indebtedness approved by the voters prior to July 1, 1978, or refunding bonds issued in place thereof under this section.

(d) Notwithstanding Section 53569 of the Government Code and Section 35996 of this code, if the board of directors determines that to do so would be consistent with prudent management of the district's fiscal affairs, the board may sell refunding bonds issued under this section at private sale without advertising for bids.

(e) The disbursement of the proceeds of the refunding bonds, pursuant to this section, shall be at the direction of the board of directors or the district's authorized officers.

SEC. 2.5. Section 36063.5 is added to the Water Code, to read:

36063.5. (a) The following terms shall have the following meanings for purposes of this section:

(1) "Bond counsel" means any attorney or firm of attorneys that represents the issuer of a new issue of bonds with respect to the issuance of the bonds and that renders a written legal opinion to, or as counsel for, the issuer with respect to the validity of the bonds.

(2) "Bond" means any bonds, notes, or other evidences of indebtedness issued by a district, or certificates of participation in any lease, sale, or other obligations of a district. "New issue of bonds" means the original issuance of bonds by a district to one or more purchasers until, in the case of underwriters, the end of the underwriting period. In the case of bonds with a tender or put option feature, or commercial paper, "new issue of bonds" means only the original issuance and not any remarketing, rollover, or reissuance.

(3) A "financial advisory relationship" exists when an investment firm, or other person or firm in the business of providing financial advisory or financial consulting services to issuers with respect to municipal securities, renders, or enters into an agreement to render, financial advisory or financial consultant services to, or on behalf of, an issuer with respect to a new issue or issues of bonds, including advice with respect to the structure, timing, terms, and other similar matters concerning the issue or issues, for a fee or other compensation or in expectation of such compensation for the rendering of those services. However, a financial advisory relationship does not exist when, in the course of acting as an underwriter, an investment firm renders advice to an issuer, including advice with respect to the structure, timing, terms, and other similar matters concerning a new issue of bonds or when, for any new issue of bonds, an investment firm advises and assists an issuer with respect to obtaining consent from holders of previously issued bonds in connection with, among other things, amendments of covenants or defaults.

(4) "Investment firm" means any bank, investment bank, partnership, corporation, association, or other firm engaged in the business of buying and selling bonds for its own account or for the

account of others as part of its regular business.

(b) No investment firm that has, or has had, a financial advisory relationship with respect to a new issue of bonds shall acquire as principal either alone or as a participant in a syndicate or other similar account formed for the purpose of purchasing, directly or indirectly, from the issuer all or any portion of the issue, or arrange for the acquisition or participation by a person controlling, controlled by, or under common control with the investment firm, unless the issue is to be sold by the issuer at competitive bid and the issuer has, prior to the bid, expressly consented in writing to the acquisition or participation. The limitations and requirements set forth in this section also apply to any investment firm controlling, controlled by, or under common control with the investment firm having a financial advisory relationship. The use of the term "indirectly" in this section does not preclude any investment firm which has a financial advisory relationship with respect to a new issue of bonds from purchasing any of those bonds from an underwriter, either for its own trading account or for the account of its customers, except to the extent that the purchase is made to contravene the purpose and intent of this section.

(c) Each financial advisory relationship shall be evidenced by a written document executed prior to, upon, or promptly after the inception of the financial advisory relationship, or promptly after the creation or selection of the issuer if the issuer does not exist or has not been determined at the time the relationship commences. That written document shall set forth the basis of compensation for the financial advisory services to be rendered, which shall be on a basis other than as a percentage of the amount of the bonds to be sold.

(d) No bond counsel with respect to a new issue of bonds shall also be counsel, with respect to that new issue of bonds, to the underwriter or other initial purchaser of the bonds. This section does not preclude the bond counsel from rendering one or more opinions to the underwriter or purchaser with respect to the bonds, the documents or laws pursuant to which the bonds are issued, the official statement, offering circular, or other disclosure document describing the bonds, or any related matter, if the opinion is rendered as bond counsel and not as counsel to the underwriter or purchaser.

(e) Injunctive relief shall be available, subject to judicial discretion, to prohibit or enjoin any violation of this section, but no violation shall affect the authority, validity, or enforceability of bonds.

SEC. 3. Section 36447.11 of the Water Code is amended to read:

36447.11. Refunding bonds issued under Article 6 (commencing with Section 36060) of Chapter 2 may be issued in the manner set forth in this chapter regardless of whether or not the bonds being refunded were issued in the manner set forth in this chapter. The par value of each improvement district's refunding bonds included in the consolidated refunding bonds shall be only sufficient to provide

for the refunding of that improvement district's bonds to be refunded.

SEC. 4. Section 36447.12 of the Water Code is amended to read:

36447.12. In lieu of refunding outstanding bonds by defeasing or calling for redemption, the board may also refund under Article 6 (commencing with Section 36060) of Chapter 2 by purchasing the bonds to be refunded with proceeds of the refunding bonds or by acquiring the bonds to be refunded and exchanging them for the refunding bonds, in either case in a negotiated transaction with the bondholder or through an intermediary agent of the district.

SEC. 5. Section 36447.13 of the Water Code is amended to read:

36447.13. Sections 36447.9, 36447.10, 36447.11, and 36447.12 may be utilized by the board whether the bonds or refunding bonds are issued as consolidated bonds or otherwise, provided that all the bonds and refunding bonds issued under this chapter shall be investigated and certified in the manner required by Section 36152.

SEC. 6. The Legislature finds and declares that there are special financial circumstances unique to the Irvine Ranch Water District, the Santa Margarita Water District, and the Moulton-Niguel Water District which make this act necessary and that a general law within the meaning of Section 16 of Article IV of the California Constitution cannot be made applicable.

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:

A reduction in debt service cost is achievable for bonds of the improvement districts of the Irvine Ranch Water District, the Santa Margarita Water District, and the Moulton-Niguel Water District if authority is given to utilize a specified test to determine whether that reduction will result from a refunding of bonds bearing interest at a fixed rate with bonds bearing interest at a variable rate. To afford the district the earliest possible opportunity to lower the financial burden of debt service for the ratepayers and taxpayers, it is necessary that this act take effect immediately.

CHAPTER 646

An act to add Section 23112.5 to the Vehicle Code, relating to highways.

[Approved by Governor September 16, 1985. Filed with Secretary of State September 17, 1985.]

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

SECTION 1. Section 23112.5 is added to the Vehicle Code, to read:

23112.5. Any person who dumps, spills, or causes the release of hazardous material, as defined by Section 353, or hazardous waste, as defined by Section 25117 of the Health and Safety Code, upon any highway shall notify the Department of the California Highway Patrol or the agency having traffic jurisdiction for that highway of the dump, spill, or release, as soon as the person has knowledge of the dump, spill, or release and notification is possible. Notwithstanding Section 42001, any person who is convicted of a violation of this section shall be punished by a mandatory fine of not less than two thousand dollars ($2,000).

SEC. 2. No reimbursement is required by this act pursuant to 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 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 647

An act to add Section 31104.8 to the Water Code, relating to county water districts, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 16, 1985 Filed with Secretary of State September 17, 1985]

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

SECTION 1. Section 31104.8 is added to the Water Code, to read:

31104.8. (a) Notwithstanding any other provision of this division, the Santa Ana Mountains County Water District may fix, in each fiscal year, within Community Facilities District No. 2 of the district, sewage and waste service standby or availability assessments of not more than two hundred fifty dollars ($250) per year for each acre or portion thereof to which sewage and waste service is immediately available. The Board of Directors of the Santa Ana Mountains County Water District may establish schedules varying the assessment according to the land uses and the degree of availability or quantity of use of the sewer capacity to the affected lands.

(b) The Santa Ana Mountains County Water District may elect to have the assessments authorized by subdivision (a) for the fiscal year collected on the tax roll in the same manner, by the same persons, and at the same time, as, and together with and not separately from, county taxes. In that event, the district shall prepare a written report which shall be filed with the secretary. The report shall contain a description of each parcel of real property and the amount of the

assessment for each parcel for the year.

(c) The sewage and waste service standby or availability assessment authorized by this section shall not be imposed on any subdivided parcel upon which there exists a residential unit which has been connected to domestic sewer facilities of the Santa Ana Mountains County Water District.

(d) The procedures set forth in Sections 31032.2 to 31032.9, inclusive, apply to any assessments imposed pursuant to subdivision (a).

SEC. 2. The Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of unique and special sewer management problems within the Santa Ana Mountains County Water District which are not common to other districts organized pursuant to the County Water District Law.

The area within the Santa Ana Mountains County Water District is primarily undeveloped. Newly developing land requires sewer capacity which may be financed by the issuance of bonds. In order to make these bond issues viable without placing a disproportionate share of the debt service burden levied to pay the interest and redemption charges on bonded indebtedness on the initially developed property, it is necessary to provide a mechanism whereby undeveloped property can bear a portion of the burden of sewer availability.

This act is necessary to permit the burden of financing vital sewer facilities in the partially undeveloped district to be more equitably allocated to all properties benefiting from the availability of a sewer system.

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 efficiently and fairly publicly finance needed sewer facilities within the Santa Ana Mountains County Water District without placing additional portion of burdens on future homeowners within the district, it is necessary to provide for a standby charge on undeveloped property. In order to provide sewer facilities at the earliest possible date for the developing areas of the district, it is necessary that this act take effect immediately.

CHAPTER 648

An act to add Sections 44227.2, 44227.3, and 44227.4 to, and to add and repeal Section 44227.1 of, the Education Code, relating to bilingual education.

[Approved by Governor September 16, 1985 Filed with Secretary of State September 17, 1985.]

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

SECTION 1. Section 44227.1 is added to the Education Code, to read:

44227.1. (a) The Commission on Teacher Credentialing shall authorize private postsecondary educational institutions to offer bilingual education training programs to individuals holding a baccalaureate degree and a valid teaching credential, which will enable them to pursue a bilingual-crosscultural certificate of competence or a bilingual-crosscultural specialist credential, if the institution meets all of the following requirements:

(1) Has been approved by the Superintendent of Public Instruction to award or issue specific degrees pursuant to subdivision (b) of Section 94310.

(2) Has been operating as a postsecondary educational institution for at least four years.

(3) Has at least submitted an application for accreditation within one year of the effective date of this bill, or been granted candidacy status on or before December 30, 1987.

(4) Has met the commission standards for program approval.

(b) This section shall remain in effect only until December 31, 1990, and as of that date is repealed.

SEC. 2. Section 44227.2 is added to the Education Code, to read:

44227.2. The Commission on Teacher Credentialing shall complete the program approval process required by Section 44227.1 within six months after the receipt of an application submitted by an applicant private postsecondary educational institution to offer bilingual education training programs.

SEC. 3. Section 44227.3 is added to the Education Code, to read:

44227.3. Any institution meeting the requirements prescribed in Section 44227.1 for the establishment of a bilingual education program which is denied approval to operate the program by the Commission on Teacher Credentialing shall be provided written notification by the commission within 30 days of the denial stating the reasons for the denial. An applicant institution may appeal the denial of the application within 60 days after receipt of the written notice. An appeal of the decision to deny an application shall be reviewed by an administrative law judge at a hearing convened for that purpose. The decision of the administrative law judge shall be binding on the commission. Nothing in this section shall be construed to prohibit an applicant institution from reapplying to the commission pursuant to Section 44227.1 if the decision of the commission to deny the application is upheld on appeal.

SEC. 4. Section 44227.4 is added to the Education Code, to read:

44227.4. The commission shall submit a report to the Legislature on or before December 31, 1989, regarding the number of private

postsecondary educational institutions authorized under this section to offer bilingual education training programs and the number of individuals granted bilingual-crosscultural specialist credentials by these institutions.

CHAPTER 649

An act to amend and repeal and add Section 42238.1 of the Education Code, relating to school finance.

[Approved by Governor September 16, 1985 Filed with Secretary of State September 17, 1985]

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

SECTION 1. Section 42238.1 of the Education Code is amended to read:

42238.1. (a) For the 1984–85 fiscal year and each fiscal year thereafter, the Superintendent of Public Instruction shall compute an inflation adjustment equal to the product of paragraphs (1) and (2):

(1) Compute for the sum of the following:

(A) The statewide average base revenue limit per unit of average daily attendance for the prior fiscal year for districts of similar type.

(B) The amount, if any, per unit of average daily attendance received by the district pursuant to Article 8 (commencing with Section 46200) of Chapter 2 of Part 26 for the prior fiscal year.

(2) The percentage change in the Implicit Price Deflator for State and Local Government Purchases of Goods and Services for the United States, as published by the United States Department of Commerce for the 12-month period ending in the third quarter of the prior fiscal year.

(b) This section shall become operative July 1, 1984.

(c) This section shall become inoperative on July 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 is repealed.

SEC. 2. Section 42238.1 is added to the Education Code, to read:

42238.1. For the 1986–87 fiscal year and each fiscal year thereafter, the Superintendent of Public Instruction shall compute an inflation adjustment equal to the product of subdivisions (a) and (b):

(a) Compute the sum of the following:

(1) The statewide average base revenue limit per unit of average daily attendance for the prior fiscal year for districts of similar type.

(2) The amount, if any, per unit of average daily attendance received by the district pursuant to Article 8 (commencing with Section 46200) of Chapter 2 of Part 26 for the prior fiscal year.

(b) The percentage change in the annual average value of the Implicit Price Deflator for State and Local Government Purchases of Goods and Services for the United States, as published by the United States Department of Commerce for the 12-month period ending in the third quarter of the prior fiscal year. This percentage change shall be determined using the latest data available as of May 1 of the preceding fiscal year compared with the annual average value of the same deflator for the 12-month period ending in the third quarter of the second preceding fiscal year, using the latest data available as of May 1 of the second preceding fiscal year, as reported by the Department of Finance.

(c) This section shall become operative July 1, 1986.

SEC. 3. Regardless of when this act becomes effective, it is the intent of the Legislature to make changes in state apportionments to school districts for the entire 1985–86 fiscal year. For the purpose of implementing the changes required by Section 1 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.

CHAPTER 650

An act to add Section 33673.1 to the Health and Safety Code, and to add Sections 5082.1 and 5086.1 to the Revenue and Taxation Code, relating to property taxation.

[Approved by Governor September 16, 1985 Filed with Secretary of State September 17, 1985.]

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

SECTION 1. Section 33673.1 is added to the Health and Safety Code, to read:

33673.1. Every redevelopment agency shall provide notice to the local assessor within 30 days whenever the agency leases real property in a redevelopment project to any person or persons for redevelopment. The notice shall provide the date on which the lessee acquires the beneficial use of the leased property. The notice shall be accompanied by a memorandum of lease and a map of the leased property.

SEC. 2. Section 5082.1 is added to the Revenue and Taxation Code, to read:

5082.1. Every public entity shall do all of the following:

(a) Provide the local assessor and auditor a copy of the instrument evidencing the acquisition of property by the entity.

(b) Indicate on the instrument referred to in subdivision (a) the

date of apportionment.

(c) Request the auditor to cancel taxes for the remaining portion of the fiscal year after the date of apportionment.

(d) Provide a map of the acquired property.

SEC. 3. Section 5086.1 is added to the Revenue and Taxation Code, to read:

5086.1. The auditor shall cancel taxes on the date of apportionment provided in the notice required by Section 5082.1.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution 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. 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.

SECTION 1. Section 1075 is added to the Public Utilities Code, to read:

1075. The commission, after a hearing, may prohibit any highway common carrier or cement carrier that is consistently or regularly delinquent in making payments to subhaulers within the period prescribed by the commission from engaging subhaulers for a period not to exceed 60 days.

SEC. 2. Section 3576 is added to the Public Utilities Code, to read:

3576. The commission may, after a hearing, prohibit any highway carrier that is consistently or regularly delinquent in making payment to subhaulers within the period prescribed by the commission from engaging subhaulers for a period not exceeding 60 days.

CHAPTER 652

An act to amend Section 1249.52 of the Health and Safety Code, relating to medical provider consultants.

[Approved by Governor September 16, 1985 Filed with Secretary of State September 17, 1985]

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

SECTION 1. Section 1249.52 of the Health and Safety Code is amended to read:

1249.52. (a) A provider of medical services may employ, hire, or

contract with a licensed medical provider consultant who may function as an agent or representative for providing manpower and technology to assist the provider in the areas referred to in subdivision (b).

(b) A medical provider consultant may contact patients, insurance companies, governmental representatives, and other third parties for the purpose of establishing partial or complete coverage by a governmental or nongovernmental source and may consult with a health care provider in the area of cost control and cost control maintenance. A medical provider consultant may assist the provider of medical services with any class of accounts, except that a medical provider consultant may not accept assignments on any provider's accounts receivable, or collect for deposit any moneys to be held in trust for the provider, except as provided in this subdivision, or use any name other than the name of the provider when assisting the provider in bringing accounts receivable to a conclusion.

Any person licensed pursuant to this chapter and who has performed the services specified in this subdivision for the 20 years immediately preceding January 1, 1986, may, subject to the written consent of his or her medical provider clients, deposit funds received on behalf of medical providers into a client security account and make periodic distribution therefrom to the respective medical provider clients.

(c) Providers of medical services or their employees whose responsibilities include, in whole or in part, the submission and followup of billing from the providers' patients or other payers shall not be required to be licensed pursuant to this chapter.

CHAPTER 653

An act to amend Section 13260 of, and to amend the heading of Chapter 9 (commencing with Section 13625) of Division 7 of, the Water Code, relating to water quality.

[Approved by Governor September 16, 1985 Filed with Secretary of State September 17, 1985]

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

SECTION 1. Section 13260 of the Water Code is amended to read:

13260. (a) Any person discharging waste or proposing to discharge waste within any region that could affect the quality of the waters of the state, other than into a community sewer system, and any person who is a citizen, domiciliary, or political agency or entity of this state discharging waste or proposing to discharge waste outside the boundaries of the state in a manner that could affect the quality of the waters of the state within any region, shall file with the

regional board of that region a report of the discharge, containing the information pertinent to the discharge as may be required by the board.

(b) No report need be filed pursuant to subdivision (a) if this requirement is waived pursuant to Section 13269.

(c) Every person subject to subdivision (a) shall file with the regional board of that region a report of any material change or proposed change in the character, location, or volume of the discharge.

(d) Each report submitted under this section shall be sworn to or submitted under penalty of perjury.

(e) Each report submitted under this section shall be accompanied by a filing fee of not to exceed fifty thousand dollars ($50,000) according to a reasonable fee schedule established by the state board. Fees shall be calculated on the basis of total flow, volume, number of animals, or area involved and shall be reasonably related to the costs to the regional board.

(f) The state board shall adopt regulations setting forth reasonable time limits within which the regional board shall determine the adequacy of a report submitted under this section.

SEC. 2. The heading of Chapter 9 (commencing with Section 13625) of Division 7 of the Water Code is amended to read:

CHAPTER 9. WASTE WATER TREATMENT PLANT CLASSIFICATION AND OPERATOR CERTIFICATION

CHAPTER 654

An act to add and repeal Section 987.95 of the Military and Veterans Code, relating to veterans' farm and home purchases.

[Approved by Governor September 16, 1985. Filed with Secretary of State September 17, 1985]

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

SECTION 1. Section 987.95 is added to the Military and Veterans Code, to read:

987.95. (a) The department may expend not to exceed five thousand dollars ($5,000), in addition to all other amounts expended under this article, for structural modifications to a home when the veteran purchaser or member of the veteran purchaser's immediate family residing in the home is or has become so severely disabled that structural modifications are required to facilitate the use of the home as a residence. These modifications may include wheelchair ramps, grip bars, widened doorways, lowered or rearranged fixtures, or other modifications or equipment that the department determines

reasonable and necessary in each particular case.

(1) In the case of a new contract, the department may increase the contract amount by the appraised value of the qualifying structural modifications or the cost to make the necessary modifications, and shall provide for amortization of the contract amount thus increased under Section 987.71 at the rate determined under Section 987.87.

(2) In the case of an existing contract where the veteran purchaser's payments are current, the department shall provide for amortization of all amounts expended under this section at the rate determined under Section 987.87 over a period of 10 years or the remaining term of the contract, whichever is the longer.

(b) The department may expend not to exceed five thousand dollars ($5,000) for structural modifications meeting the requirements and purposes of subdivision (a) to the home of a veteran purchaser who has paid the contract of purchase in full. To qualify under this subdivision, the home shall be that which was purchased under this article or Article 3 (commencing with Section 985), shall be occupied by the veteran purchaser, and shall be free of all liens and encumbrances. The department shall provide for the amortization of all amounts expended under this subdivision over a period not to exceed 10 years at the rate determined under Section 987.87.

(c) The department may expend not to exceed five million dollars ($5,000,000) for purposes of this section.

(d) This section shall remain in effect only until January 1, 1989, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1989, deletes or extends that date.

CHAPTER 655

An act to add and repeal Section 7512 of the Government Code, relating to public pension and retirement systems.

[Approved by Governor September 16, 1985. Filed with Secretary of State September 17, 1985]

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

SECTION 1. Section 7512 is added to the Government Code, to read:

7512. Each state and local public pension or retirement system shall, on and after the 90th day following the completion of the annual audit of the system, mail or otherwise provide to any member who makes a request therefor and pays, if required, a fee, a concise annual report on the investments and earnings of the system and other related matters. The report shall be published in a low-cost format.

Each local public pension or retirement system may impose a fee for each copy of the report in an amount sufficient to pay all costs incurred in the preparation and dissemination of the report.

This section shall remain in effect only until January 1, 1992, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1992, deletes or extends such 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 656

An act to add Sections 779, 7459, and 7460 to the Financial Code, relating to fraud.

[Approved by Governor September 16, 1985. Filed with Secretary of State September 17, 1985]

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

SECTION 1. Section 779 is added to the Financial Code, to read:

779. (a) Notwithstanding Section 726 of the Code of Civil Procedure or any other provision of law to the contrary, a state or nationally chartered bank or its subsidiaries or affiliates transacting business in this state that originates the loan, or any successor in interest, may bring an action for recovery of damages, including exemplary damages not to exceed 50 percent of the actual damages, against a borrower where the action is based on fraud under Section 1572 of the Civil Code and the fraudulent conduct by the borrower induced the bank to make a real estate mortgage or deed of trust loan to the borrower.

(b) The provisions of this section shall not apply to loans secured by single-family, owner-occupied residential real property, when the property is actually occupied by the borrower as represented to the lender in order to obtain the loan and the loan is for an amount of one hundred fifty thousand dollars ($150,000) or less, as adjusted annually, commencing on January 1, 1987, to the Consumer Price Index as published by the United States Department of Labor.

(c) Any action maintained under this section for damages shall not constitute a money judgment for deficiency or a deficiency judgment within the meaning of Section 580a, 580b, or 580d of the Code of Civil Procedure.

SEC. 2. Section 7459 is added to the Financial Code, to read:

7459. In addition to establishing reserves pursuant to Section 6476, an association or federal association, as defined in Section 5102,

may establish a separate loan reserve account regarding losses resulting from fraud by a borrower and may recover any of those losses from that borrower.

SEC. 3. Section 7460 is added to the Financial Code, to read:

7460. (a) Notwithstanding Section 726 of the Code of Civil Procedure or any other provision of law to the contrary, an association or a federal association that originates the loan, or any successor in interest, may bring an action for recovery of damages, including exemplary damages not to exceed 50 percent of the actual damages, against a borrower where the action is based on fraud under Section 1572 of the Civil Code and the fraudulent conduct by the borrower induced the association to make a real estate mortgage or deed of trust loan to the borrower.

(b) The provisions of this section shall not apply to loans secured by single-family, owner-occupied residential real property, when the property is actually occupied by the borrower as represented to the lender in order to obtain the loan and the loan is for an amount of one hundred fifty thousand dollars ($150,000) or less, as adjusted annually, commencing on January 1, 1987, to the Consumer Price Index as published by the United States Department of Labor.

(c) Any action maintained under this section for damages shall not constitute a money judgment for deficiency or a deficiency judgment within the meaning of Section 580a, 580b, or 580d of the Code of Civil Procedure.

CHAPTER 657

An act to amend Section 142.1 of, and to repeal Section 142.5 of, the Labor Code, relating to occupational safety and health.

[Approved by Governor September 16, 1985. Filed with Secretary of State September 17, 1985.]

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

SECTION 1. Section 142.1 of the Labor Code is amended to read:

142.1. The board shall meet at least monthly. The meetings shall be rotated throughout the state at locations designated by the chairman. All meetings held by the board shall be open and public. Written notice of all meetings and a proposed agenda shall be given to all persons who make request for the notice in writing to the board.

SEC. 2. Section 142.5 of the Labor Code is repealed.

CHAPTER 658

An act to amend Section 1289 of the Labor Code, relating to appeal hearings.

[Approved by Governor September 16, 1985 Filed with Secretary of State September 17, 1985]

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

SECTION 1. Section 1289 of the Labor Code is amended to read:

1289. (a) If a person desires to contest a citation or the proposed assessment of a civil penalty therefor, he or she shall within four 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 the commissioner's deputy or agent shall, within 10 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 director and shall not be subject to further administrative review. The Labor Commissioner's determination after the conclusion of the hearing shall be deemed the final order of the director and shall not be subject to further administrative review.

(b) A person to whom a citation has been issued, shall, in lieu of contesting a citation pursuant to this section, transmit to the office of the Labor Commissioner designated on the citation the amount specified for the violation within four business days after issuance of the citation.

(c) The Labor Commissioner shall promptly take all appropriate action to enforce the citation and recover the civil penalty prescribed thereon or found to be due after a hearing. The Labor Commissioner may maintain an action in any court of competent jurisdiction to recover the amount of civil penalties found to be due.

(d) If a person is cited for a violation of this article and for a violation of Chapter 3.5 (commencing with Section 1020) of Part 3 of Division 1, and desires to contest the citation issued pursuant to this article, the procedure set forth in Section 1023 shall be followed instead of the procedure in this section.

CHAPTER 659

An act to amend Sections 73562, 73565, 73566, and 73568 of the Government Code, relating to courts.

[Approved by Governor September 16, 1985 Filed with Secretary of State September 17, 1985.]

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

SECTION 1. Section 73562 of the Government Code is amended to read:

73562. There shall be nine judges of the Monterey County Municipal Court District.

SEC. 2. 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 or she shall receive a salary of three thousand five hundred twenty dollars ($3,520) monthly, provided, however, that the salary may be adjusted pursuant to Section 73568. He or she 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.

SEC. 3. 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	Classification	Monthly salary
2	Municipal Court Branch Manager	$2,845 Flat
1	Administrative Assistant	1,946–2,411
1	Chief Deputy Municipal Court Clerk	1,946–2,411
2	Municipal Court Calendar Coordinator	1,563–1,936
1	Departmental Data–Processing Coordinator	1,472–1,823
1	Accounting Technician	1,524–1,888
2	Senior Account Clerk	1,312–1,626
5	Account Clerk	1,147–1,421
8	Municipal Court Clerk IV	1,509–1,869
7	Municipal Court Clerk III	1,293–1,602
31.5	Municipal Court Clerk II	1,147–1,421
4	Municipal Court Clerk II/Bilingual	* 1,147–1,421
8	Municipal Court Clerk I	1,091–1,352
11	Courtroom Clerk	1,479–1,832
1	Court Interpreter	1,366–1,692
1	Senior Secretary	1,479–1,832
1	Secretary	1,339–1,658
1	Secretarial Assistant	1,206–1,494
2	Senior Data Entry Operator	1,274–1,578
6	Data Entry Operator II	1,113–1,379

* Employees certified by the State of California and providing interpreter services in the courtroom receive $110 per month additional differential.

SEC. 4. 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 adjust-

ing 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 Assistant	Administrative Assistant
Chief Deputy Municipal Court Clerk	Administrative Assistant
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 II/Bilingual	Municipal Court Clerk II/ Bilingual + $110 per mo.
Municipal Court Clerk I	Typist Clerk II
Courtroom Clerk	Courtroom Clerk
Court Interpreter	Legal Process Clerk, plus 35 ranges
Senior Secretary	Senior Secretary
Secretary	Secretary
Secretarial Assistant	Secretarial Assistant
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. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act.

CHAPTER 660

An act to amend Section 1689.5 of the Civil Code, relating to home solicitation contracts.

[Approved by Governor September 16, 1985. Filed with Secretary of State September 17, 1985]

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

SECTION 1. Section 1689.5 of the Civil Code is amended to read:

1689.5. As used in Sections 1689.6 to 1689.11, inclusive:

(a) "Home solicitation contract or offer" means any contract, whether single or multiple, or any offer which is subject to approval, for the sale, lease or rental of goods or services or both, made at other than appropriate trade premises in an amount of twenty-five dollars ($25) or more including any interest or service charges. "Home solicitation contract" does not include any contract under which the buyer has the right to rescind pursuant to Title 1, Chapter 2, Section 125 of the Federal Consumer Credit Protection Act (P.L. 90-321) and the regulations promulgated pursuant thereto.

(b) "Appropriate trade premises," means premises at which either the owner or seller normally carries on a business, or where goods are normally offered or exposed for sale in the course of a business carried on at those premises.

(c) "Goods" means tangible chattels bought for use primarily for personal, family, or household purposes, including certificates or coupons exchangeable for such goods, and including goods which, at the time of the sale or subsequently, are to be so affixed to real property as to become a part of such real property whether or not severable therefrom, but does not include any vehicle required to be registered under the Vehicle Code, nor any goods sold with such a vehicle if sold under a contract governed by Section 2982, and does not include any mobilehome, as defined in Section 18008 of the Health and Safety Code, nor any goods sold with such a mobilehome if either are sold under a contract subject to the provisions of Section 18036.5 of the Health and Safety Code.

(d) "Services" means work, labor and services, including, but not

limited to, services furnished in connection with the repair, alteration, or improvement of residential premises, or services furnished in connection with the sale or repair of goods as defined in Section 1802.1, and courses of instruction, regardless of the purpose for which they are taken, but does not include the services of attorneys, real estate brokers and salesmen, securities dealers or investment counselors, physicians, optometrists, or dentists, nor financial services offered by banks, savings institutions, credit unions, industrial loan companies, personal property brokers, consumer finance companies, or commercial finance lenders, organized pursuant to state or federal law, which are not connected with the sale of goods or services, as defined herein, nor the sale of insurance which is not connected with the sale of goods or services as defined herein, nor services in connection with the sale or installation of mobilehomes or of goods sold with a mobilehome if either are sold or installed under a contract subject to the provisions of Section 18036.5 of the Health and Safety Code, nor services for which the tariffs, rates, charges, costs, or expenses, including in each instance the time sale price, is required by law to be filed with and approved by the federal government or any official, department, division, commission, or agency of the United States or of the State of California.

(e) "Business day" means any calendar day except Sunday, or the following business holidays: New Year's Day, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, and Christmas Day.

CHAPTER 661

An act to amend Sections 3540.1 and 3541.3 of, and to repeal Section 3520.7 of, as added by Chapter 1081 of the Statutes of 1982, of the Government Code, relating to the Public Employment Relations Board.

[Approved by Governor September 16, 1985 Filed with Secretary of State September 17, 1985]

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

SECTION 1. Section 3520.7 of the Government Code, as added by Chapter 1081 of the Statutes of 1982, is repealed.

SEC. 2. Section 3540.1 of the Government Code is amended to read:

3540.1. As used in this chapter:

(a) "Board" means the Public Employment Relations Board created pursuant to Section 3541.

(b) "Certified organization" or "certified employee organization" means an organization which has been certified by the

board as the exclusive representative of the public school employees in an appropriate unit after a proceeding under Article 5 (commencing with Section 3544).

(c) "Confidential employee" means any employee who, in the regular course of his or her duties, has access to, or possesses information relating to, his or her employer's employer-employee relations.

(d) "Employee organization" means any organization which includes employees of a public school employer and which has as one of its primary purposes representing those employees in their relations with that public school employer. "Employee organization" shall also include any person such an organization authorizes to act on its behalf.

(e) "Exclusive representative" means the employee organization recognized or certified as the exclusive negotiating representative of certificated or classified employees in an appropriate unit of a public school employer.

(f) "Impasse" means that the parties to a dispute over matters within the scope of representation have reached a point in meeting and negotiating at which their differences in positions are so substantial or prolonged that future meetings would be futile.

(g) "Management employee" means any employee in a position having significant responsibilities for formulating district policies or administering district programs. Management positions shall be designated by the public school employer subject to review by the Public Employment Relations Board.

(h) "Meeting and negotiating" means meeting, conferring, negotiating, and discussing by the exclusive representative and the public school employer in a good faith effort to reach agreement on matters within the scope of representation and the execution, if requested by either party, of a written document incorporating any agreements reached, which document shall, when accepted by the exclusive representative and the public school employer, become binding upon both parties and, notwithstanding Section 3543.7, shall not be subject to subdivision 2 of Section 1667 of the Civil Code. The agreement may be for a period of not to exceed three years.

(i) "Organizational security" means either of the following:

(1) An arrangement pursuant to which a public school employee may decide whether or not to join an employee organization, but which requires him or her, as a condition of continued employment, if he or she does join, to maintain his or her membership in good standing for the duration of the written agreement. However, no such arrangement shall deprive the employee of the right to terminate his or her obligation to the employee organization within a period of 30 days following the expiration of a written agreement.

(2) An arrangement that requires an employee, as a condition of continued employment, either to join the recognized or certified employee organization, or to pay the organization a service fee in an amount not to exceed the standard initiation fee, periodic dues, and

general assessments of the organization for the duration of the agreement, or a period of three years from the effective date of the agreement, whichever comes first.

(j) "Public school employee" or "employee" means any person employed by any public school employer except persons elected by popular vote, persons appointed by the Governor of this state, management employees, and confidential employees.

(k) "Public school employer" or "employer" means the governing board of a school district, a school district, a county board of education, or a county superintendent of schools.

(*l*) "Recognized organization" or "recognized employee organization" means an employee organization which has been recognized by an employer as the exclusive representative pursuant to Article 5 (commencing with Section 3544).

(m) "Supervisory employee" means any employee, regardless of job description, having authority in the interest of the employer to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or the responsibility to assign work to and direct them, or to adjust their grievances, or effectively recommend such action, if, in connection with the foregoing functions, the exercise of that authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

SEC. 3. Section 3541.3 of the Government Code is amended to read:

3541.3. The board shall have all of the following powers and duties:

(a) To determine in disputed cases, or otherwise approve, appropriate units.

(b) To determine in disputed cases whether a particular item is within or without the scope of representation.

(c) To arrange for and supervise representation elections which shall be conducted by means of secret ballot elections, and certify the results of the elections.

(d) To establish lists of persons broadly representative of the public and qualified by experience to be available to serve as mediators, arbitrators, or factfinders. In no case shall these lists include persons who are on the staff of the board.

(e) To establish by regulation appropriate procedures for review of proposals to change unit determinations.

(f) Within its discretion, to conduct studies relating to employer-employee relations, including the collection, analyses, and making available of data relating to wages, benefits, and employment practices in public and private employment, and, when it appears necessary in its judgment to the accomplishment of the purposes of this chapter, recommend legislation. The board shall report to the Legislature by October 15 of each year on its activities during the immediately preceding fiscal year. The board may enter into contracts to develop and maintain research and training programs designed to assist public employers and employee organizations in

the discharge of their mutual responsibilities under this chapter.

(g) To adopt, pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2, rules and regulations to carry out the provisions and effectuate the purposes and policies of this chapter.

(h) To hold hearings, subpoena witnesses, administer oaths, take the testimony or deposition of any person, and, in connection therewith, to issue subpoenas duces tecum to require the production and examination of any employer's or employee organization's records, books, or papers relating to any matter within its jurisdiction.

(i) To investigate unfair practice charges or alleged violations of this chapter, and take such action and make such determinations in respect of these charges or alleged violations as the board deems necessary to effectuate the policies of this chapter.

(j) To bring an action in a court of competent jurisdiction to enforce any of its orders, decisions, or rulings, or to enforce the refusal to obey a subpoena. Upon issuance of a complaint charging that any person has engaged in or is engaging in an unfair practice, the board may petition the court for appropriate temporary relief or restraining order.

(k) To delegate its powers to any member of the board or to any person appointed by the board for the performance of its functions, except that no fewer than two board members may participate in the determination of any ruling or decision on the merits of any dispute coming before it, and except that a decision to refuse to issue a complaint shall require the approval of two board members.

(*l*) To decide contested matters involving recognition, certification, or decertification of employee organizations.

(m) To consider and decide issues relating to rights, privileges, and duties of an employee organization in the event of a merger, amalgamation, or transfer of jurisdiction between two or more employee organizations.

(n) To take such other action as the board deems necessary to discharge its powers and duties and otherwise to effectuate the purposes of this chapter.

CHAPTER 662

An act to add Section 1682.4 to the Labor Code, relating to farm labor contractors.

[Approved by Governor September 16, 1985 Filed with Secretary of State September 17, 1985]

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

SECTION 1. Section 1682.4 is added to the Labor Code, to read:

1682.4. "Farm labor contractor" does not include a commercial packing house engaged in both the harvesting and the packing of citrus fruit or soft fruit for a client or customer.

CHAPTER 663

An act to amend Section 3289 of the Civil Code, relating to damages.

[Approved by Governor September 16, 1985 Filed with Secretary of State September 17, 1985.]

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

SECTION 1. Section 3289 of the Civil Code is amended to read:

3289. (a) Any legal rate of interest stipulated by a contract remains chargeable after a breach thereof, as before, until the contract is superseded by a verdict or other new obligation.

(b) If a contract entered into after January 1, 1986, does not specify a legal rate of interest chargeable after a breach, the obligation shall bear interest at a rate of 10 percent per annum.

CHAPTER 664

An act to amend Sections 25361 and 25380 of the Health and Safety Code, relating to hazardous substances.

[Approved by Governor September 16, 1985 Filed with Secretary of State September 17, 1985]

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

SECTION 1. Section 25361 of the Health and Safety Code is amended to read:

25361. (a) The state account or the Hazardous Substance Cleanup Fund shall be a party in any action for recovery of costs or expenditures under this chapter incurred from the state account or the Hazardous Substance Cleanup Fund.

(b) In the event a district attorney or a city attorney has brought an action for civil or criminal penalties pursuant to Chapter 6.5 (commencing with Section 25100) against any person for the violation of any provision of that chapter, or any rule, regulation, permit, covenant, standard, requirement, or order issued, adopted, or executed thereunder, and the department has expended moneys

from the state account pursuant to Section 25354 for immediate corrective action in response to a release, or threatened release, of a hazardous substance which has resulted, in whole or in part, from the person's acts or omissions, the state account may be made a party to that action for the purpose of recovering the costs against that person. If the state account is made a party to the action, the Attorney General shall represent the state account for the purpose of recovering the moneys expended from the account. Notwithstanding any other provision of law, and under terms that the Attorney General and the department deem appropriate, the Attorney General may delegate the authority to recover the costs to the district attorney or city attorney who has brought the action pursuant to Chapter 6.5 (commencing with Section 25100). The failure to seek the recovery of moneys expended from the state account as part of the action brought pursuant to Chapter 6.5 (commencing with Section 25100) does not foreclose the Attorney General from recovering the moneys in a separate action.

SEC. 2. Section 25380 of the Health and Safety Code is amended to read:

25380. Compensation of any loss pursuant to this article shall be subject to the state's acquiring, by subrogation, all rights of the claimant to recover the loss from the party determined to be liable therefor. Upon the request of the board, the Attorney General shall commence an action in the name of the people of the State of California to recover any amount paid in compensation for any loss pursuant to this article against any party who is liable to the claimant for any loss compensable pursuant to this article in accordance with the procedures set forth in Sections 25360 to 25364, inclusive. Moneys recovered pursuant to this section shall be deposited in the state account.

CHAPTER 665

An act to amend Section 14083 of the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor September 16, 1985 Filed with Secretary of State September 17, 1985.]

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

SECTION 1. Section 14083 of the Welfare and Institutions Code is amended to read:

14083. The factors to be considered by the negotiator in negotiating contracts under this article, or in drawing specifications for competitive bidding, include, but are not limited to, all of the following:

(a) Beneficiary access.

(b) Utilization controls.

(c) Ability to render quality services efficiently and economically.

(d) Demonstrated ability to provide or arrange needed specialized services.

(e) Protection against fraud and abuse.

(f) Any other factor which would reduce costs, promote access, or enhance the quality of care.

(g) The capacity to provide a given tertiary service, such as specialized children's services, on a regional basis.

(h) Recognition of the variations in severity of illness and complexity of care.

(i) Existing labor-management collective bargaining agreements.

(j) The situation of county hospitals and university medical centers contracting with counties for provision of health care to indigent persons entitled to care under Section 17000, which are burdened to a greater extent than private hospitals with bad debts, indirect costs, medical education programs, and capital needs.

(k) The special circumstances of hospitals serving a disproportionate number of Medi-Cal beneficiaries and patients who are not covered by other third party payers.

SEC. 2. It is the intent of the Legislature that the provisions of this act shall be funded by the Budget Act of 1985.

CHAPTER 666

An act to amend Section 3732 of the Labor Code, relating to workers' compensation.

[Approved by Governor September 16, 1985 Filed with Secretary of State September 17, 1985]

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

SECTION 1. Section 3732 of the Labor Code is amended to read:

3732. (a) If compensation is paid or becomes payable from the Uninsured Employers Fund, whether as a result of a findings and award, award based upon stipulations, compromise and release executed on behalf of the director, or payments voluntarily furnished by the director pursuant to Section 4903.3, the director may recover damages from any person or entity, other than the employer, whose tortious act or omission proximately caused the injury or death of the employee. The damages shall include any compensation, including additional compensation by way of interest or penalty, paid or payable by the director, plus the expense incurred by the director in investigating and litigating the workers' compensation claim and a reasonable attorney fee for litigating the workers' compensation claim. The director may compromise, or settle and release any claim, and may waive any claim, including the lien allowed by this section,

in whole or in part, for the convenience of the director.

(b) Except as otherwise provided in this section, Chapter 5 (commencing with Section 3850) of Part 1 of Division 4 shall be applicable to such actions, the director being treated as an employer within the meaning of Chapter 5 to the extent not inconsistent with this section.

(c) Actions brought under this section shall be commenced within one year after the later of either the time the director pays or the time the director becomes obligated to pay any compensation from the Uninsured Employers Fund.

(d) In the trial of these actions, any negligence attributable to the employer shall not be imputed to the director or to the Uninsured Employers Fund, and the damages recoverable by the director shall not be reduced by any percentage of fault or negligence attributable to the employer or to the employee.

(e) In determining the credit to the Uninsured Employers Fund provided by Section 3861, the appeals board shall not take into consideration any negligence of the employer, but shall allow a credit for the entire amount of the employee's recovery either by settlement or after judgment, as has not theretofore been applied to the payment of expenses or attorney's fees.

(f) When an action or claim is brought by an employee, his or her guardian, conservator, personal representative, estate, survivors, or heirs against a third party who may be liable for causing the injury or death of the employee, any settlement or judgment obtained is subject to the director's claim for damages recoverable by the director pursuant to subdivision (a), and the director shall have a lien against any settlement in the amount of the damages.

(g) No judgment or settlement in any action or claim by an employee, his or her guardian, conservator, personal representative, survivors, or heirs to recover damages for injuries, where the director has an interest, shall be satisfied without first giving the director notice and a reasonable opportunity to perfect and satisfy his or her lien.

(h) When the director has perfected a lien upon a judgment or settlement in favor of an employee, his or her guardian, conservator, personal representative, survivors or heirs against any third party, the director shall be entitled to a writ of execution as a lien claimant to enforce payment of the lien against the third party with interest and other accruing costs as in the case of other executions. In the event the amount of the judgment or settlement so recovered has been paid to the employee, his or her guardian, conservator, personal representative, survivors, or heirs, the director shall be entitled to a writ of execution against the employee, his or her guardian, conservator, personal representative, survivors, or heirs to the extent of the director's lien, with interest and other accruing costs as in the cost of other executions.

(i) Except as otherwise provided in this section, notwithstanding any other provision of law, the entire amount of any settlement of

the action or claim of the employee, his or her guardian, conservator, personal representative, survivors, or heirs, with or without suit, is subject to the director's lien claim for the damages recoverable by the director pursuant to subdivision (a).

(j) Where the action or claim is brought by the employee, his or her guardian, conservator, personal representative, estate, survivors, or heirs, and the director has not joined in the action, and the employee, his or her guardian, conservator, personal representative, estate, survivors, or heirs incur a personal liability to pay attorney's fees and costs of litigation, the director's claim for damages shall be limited to the amount of the director's claim for damages less that portion of the costs of litigation expenses determined by multiplying the total cost of litigation expenses by the ratio of the full amount of the director's claim for damages to the full amount of the judgment, award, or settlement, and less 25 percent of the balance after subtracting the director's share of litigation expenses, which represents the director's reasonable share of attorney's fees incurred.

(k) In the trial of the director's action for damages, and in the allowance of his or her lien in an action by the employee, guardian, executor, personal representative, survivors, or heirs, the compensation paid from the Uninsured Employers Fund pursuant to an award as provided in Section 3716 is conclusively presumed to be reasonable in amount and to be proximately caused by the event or events which caused the employee's injury or death.

(*l*) In the action for damages the director shall be entitled to recover, if he or she prevails, the entire amount of the damages recoverable by the director pursuant to subdivision (a), regardless of whether the damages recoverable by the employee, guardian, conservator, personal representative, survivors, or heirs are of lesser amount.

SEC. 2. The amendments to subdivision (c) of Section 3732 of the Labor Code, as contained in Section 1 of this act, are intended to be retrospective and shall apply to any claim which could be, but has not yet been, brought on January 1, 1986, under the language of subdivision (c) of Section 3732 of the Labor Code, as amended by Section 1 of this act. Except for the amendments to subdivision (c), of Section 3732 of the Labor Code, as contained in Section 1 of this act, the amendments to that section, as contained in Section 1 of this act, shall apply to all claims of the director and all claims of the employee, guardian, conservator, personal representative, estate, survivors, or heirs not yet reduced to final judgment as of January 1, 1986.

CHAPTER 667

An act to amend Section 601.1 of the Welfare and Institutions Code, relating to juvenile court law.

[Approved by Governor September 16, 1985 Filed with Secretary of State September 17, 1985]

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

SECTION 1. Section 601.1 of the Welfare and Institutions Code is amended to read:

601.1. (a) Any person under the age of 18 years who persistently or habitually refuses to obey the reasonable and proper orders or directions of school authorities, and is thus beyond the control of those authorities, or who is a habitual truant from school within the meaning of any law of this state, shall, prior to any referral to the juvenile court of the county, be referred to a school attendance review board pursuant to Section 48263 of the Education Code, or to a truancy mediation program pursuant to Section 601.3 of this code, or to both a school attendance review board and a truancy mediation program if both have been established in the county.

(b) In addition to any other orders authorized by law, when, after an initial referral as required by subdivision (a), a minor is adjudged a ward of the court on the ground that he or she is a person described in Section 601 by reason of habitual truancy, the court may order the minor to participate in a specified community service or educational program sponsored by either a public or private agency. The minor's participation in the program shall be limited to nonschool hours. The court may order the probation officer to pick up and deliver the minor to the program designated by the court on the days that the minor is ordered to participate in the program.

To the extent practically feasible, such a minor shall not be permitted to come or remain in contact with minors ordered to participate in the program as a result of conduct described in Section 602. In no case may the court order that the minor be detained in any program overnight.

SEC. 2. No appropriation is made by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act does not mandate a new program or higher level of service on local government. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 4 (commencing with Section 17550) of Part 7 of Division 2 of Title 2 of the Government Code.

CHAPTER 668

An act to amend Section 13701 of the Penal Code, relating to domestic disturbance.

[Approved by Governor September 16, 1985 Filed with Secretary of State September 17, 1985]

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

SECTION 1. Section 13701 of the Penal Code is amended to read:

13701. Every law enforcement agency in the this state shall develop, adopt, and implement written policies and standards for officers' response to domestic violence calls by January 1, 1986. These policies shall reflect that domestic violence is alleged criminal conduct. Further, they shall reflect existing policy that a request for assistance in a situation involving domestic violence is the same as any other request for assistance where violence has occurred. These existing local policies and those developed shall be in writing and shall be available to the public upon request and shall include specific standards for the following:

(a) Felony arrests.

(b) Misdemeanor arrests.

(c) Use of citizen arrests.

(d) Verification and enforcement of temporary restraining orders when (1) the suspect is present and (2) when the suspect has fled.

(e) Verification and enforcement of stay-away orders.

(f) Cite and release policies.

(g) Emergency assistance to victims, such as medical care, transportation to a shelter, and police standbys for removing personal property.

(h) Assisting victims in pursuing criminal options, such as giving the victim the report number and directing the victim to the proper investigation unit.

(i) Furnishing written notice to victims at the scene, including, but not limited to, all of the following information:

(1) (A) A statement that, "For further information about a shelter you may contact _____."

(B) A statement that, "For information about other services in the community, where available, you may contact _____."

(2) A statement informing the victim of domestic violence that he or she can ask the district attorney to file a criminal complaint.

(3) A statement informing the victim of the right to go to the superior court and file a petition requesting any of the following orders for relief:

(A) An order restraining the attacker from abusing the victim and other family members.

(B) An order directing the attacker to leave the household.

(C) An order preventing the attacker from entering the

residence, school, business, or place of employment of the victim.

(D) An order awarding the victim or the other parent custody of or visitation with a minor child or children.

(E) An order restraining the attacker from molesting or interfering with minor children in the custody of the victim.

(F) An order directing the party not granted custody to pay support of minor children, if that party has a legal obligation to do so.

(G) An order directing the defendant to make specified debit payments coming due while the order is in effect.

(H) An order directing that either or both parties participate in counseling.

(4) A statement informing the victim of the right to file a civil suit for losses suffered as a result of the abuse, including medical expenses, loss of earnings, and other expenses for injuries sustained and damage to property, and any other related expenses incurred by the victim or any agency that shelters the victim.

(j) Writing of reports.

In the development of these policies and standards, each local department is encouraged to consult with domestic violence experts, such as the staff of the local shelter for battered women and their children. Departments may utilize the response guidelines developed by the commission in developing local policies.

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. Reimbursement to local agencies and school districts for costs mandated by the state pursuant to this act shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code and, if the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), shall be made from the State Mandates Claims Fund.

CHAPTER 669

An act to amend Section 100.45 of, and to add Section 100.41 to, the Streets and Highways Code, relating to state highways.

[Approved by Governor September 17, 1985 Filed with Secretary of State September 18, 1985.]

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

SECTION 1. Section 100.41 is added to the Streets and Highways Code, to read:

100.41. Notwithstanding Section 100.2, the department may

construct a freeway, without an agreement with a county or city, on the route determined by the commission, if all of the following conditions have been met:

(a) The freeway is included within the California freeway and expressway system in the County of San Diego and a route has been adopted for a portion of the freeway.

(b) The unconstructed portion of the existing adopted route will be constructed during the five years of the 1984 State Transportation Improvement Program.

(c) There are at least two feasible alternative routes as determined by the department.

(d) The unadopted portion of the freeway creates a gap between the termination point and an existing state highway.

(e) A transportation planning agency is in existence prior to January 1, 1982, and this agency has included the entire freeway in its regional transportation plan.

(f) Under the conditions in subdivisions (a) to (e), inclusive, the commission shall hold public hearings as it may deem necessary, review the draft environmental impact report or statement, and consider the recommendation and records of the transportation planning agency and other documents as it may deem advisable. The commission shall take into consideration all traditional factors of route selection by the state, including the question of least adverse economic and physical impact on the communities involved.

(g) The environmental impact report or statement shall examine the impacts of alternative route alignments on the communities involved. The definition and scope of these communities shall reflect the sense of community of residents within and immediately adjacent to the adopted route and alternate route location.

(h) The department shall prepare the draft environmental impact report or statement within one year of the enactment of this section. The commission may hold public hearings on the draft environmental impact report or statement as it deems necessary, with any hearing to be concluded within six months of the availability of the draft environmental impact report or statement. The department shall prepare the final environmental impact report or statement within 12 months of the completion of the public review period of the draft environmental impact report or statement. The commission shall select the route within six months of the completion of the final environmental impact report or statement.

(i) If a route is adopted under this section, the commission shall set forth, as a part of its decision statement, the reasons for the route selected.

SEC. 2. Section 100.45 of the Streets and Highways Code is amended to read:

100.45. When the department constructs a freeway on the route selected pursuant to Section 100.4 or 100.41, the department shall meet and confer with affected counties and cities with respect to the design of the portion of the freeway to be constructed within the

jurisdiction of the affected county or city.

CHAPTER 670

An act to amend Sections 8726 and 8730 of the Business and Professions Code, relating to surveyors.

[Approved by Governor September 17, 1985 Filed with Secretary of State September 18, 1985.]

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

SECTION 1. Section 8726 of the Business and Professions Code is amended to read:

8726. A person, including any person employed by the state or by a city, county, or city and county within the state, practices land surveying within the meaning of this chapter who, either in a public or private capacity, does or offers to do any one or more of the following:

(a) Locates, relocates, establishes, reestablishes, or retraces the alignment or elevation for any of the fixed works embraced within the practice of civil engineering, as described in Section 6731.

(b) Determines the configuration or contour of the earth's surface, or the position of fixed objects thereon or related thereto, by means of measuring lines and angles, and applying the principles of trigonometry or photogrammetry.

(c) Locates, relocates, establishes, reestablishes, or retraces any property line or boundary of any parcel of land, right-of-way, easement, or alignment of those lines or boundaries.

(d) Makes any survey for the subdivision or resubdivision of any tract of land. For the purposes of this subdivision, the term "subdivision" or "resubdivision" shall be defined to include, but not limited to, the definition in the Subdivision Map Act (Division 2 (commencing with Section 66410) of Title 7 of the Government Code) or the Subdivided Lands Law (Chapter 1 (commencing with Section 11000) of Part 2 of Division 4 of the Business and Professions Code).

(e) By the use of the principles of land surveying determines the position for any monument or reference point which marks a property line, boundary or corner, or sets, resets, or replaces any such monument or reference point.

(f) Geodetic or cadastral surveying.

(g) Determines the information shown or to be shown on any map or document prepared or furnished in connection with any one or more of the functions described in subdivisions (a), (b), (c), (d), (e), and (f).

(h) Indicates, in any capacity or in any manner, by the use of the title "land surveyor" or by any other title or by any other

representation that he practices or offers to practice land surveying in any of its branches.

(i) Procures or offers to procure land surveying work for himself or others.

(j) Manages, or conducts as manager, proprietor, or agent, any place of business from which land surveying work is solicited, performed or practiced.

Any department or agency of the state or any city, county, or city and county which has an unregistered person in responsible charge of land surveying work on the effective date of the amendments made to this section at the 1984–85 Regular Session of the Legislature shall be exempt from the requirement that the person be licensed as a land surveyor until such time as the person currently in responsible charge is replaced.

SEC. 2. Section 8730 of the Business and Professions Code is amended to read:

8730. The following are not required to be licensed under this chapter:

(a) Officers and employees of the United States of America, practicing solely as those officers or employees, except when surveying the exterior boundaries of federal lands in this state.

(b) Insofar as he or she acts in the following capacity:

(1) Any state, county, city, or district employee directly responsible to a licensed land surveyor or registered civil engineer.

(2) Any subordinate to a land surveyor or civil engineer licensed or registered as required by the laws of this state in so far as he or she acts as a subordinate.

SEC. 3. No reimbursement is required by this act pursuant to 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 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 671

An act to amend Section 65913.5 of, and to add Section 65958 to, the Government Code, relating to development.

[Approved by Governor September 17, 1985 Filed with Secretary of State September 18, 1985]

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

SECTION 1. Section 65913.5 of the Government Code is amended to read:

65913.5. (a) Any party may protest the establishment of the imposition of any fees, taxes (other than ad valorem property taxes

imposed pursuant to Division 1 (commencing with Section 50) of the Revenue and Taxation Code), assessments, dedications, reservations, or other exactions imposed on a residential housing development by a city, county, city and county, or any other local public entity by meeting both of the following requirements:

(1) Tendering any required payment in full or providing satisfactory evidence of arrangements to ensure performance of the conditions necessary to meet the requirements of the imposition.

(2) Serving written notice on the governing body of the entity which notice shall contain all of the following information:

(A) A statement that the required payment is tendered, or that any conditions which have been imposed are provided for or satisfied, under protest.

(B) A statement informing the governing body of the factual elements of the dispute and the legal theory forming the basis for the protest.

(b) Compliance by any party with subdivision (a) shall not be the basis for a city, county, city and county, or any other local public entity to withhold approval of any map, plan, permit, zone change, license, or other form of permission, or concurrence, whether discretionary, ministerial, or otherwise, incident to, or necessary for, the development of the residential housing development. This section does not limit the ability of a public agency to ensure compliance with all applicable provisions of law in determining whether or not to approve or disapprove a development project.

(c) Where a reviewing public agency makes proper and valid findings that the construction of certain public improvements or facilities, the need for which is directly attributable to the proposed residential housing development, is required for reasons related to the public health, safety, and welfare, and elects to impose a requirement for construction of those improvements or facilities as a condition of approval of the proposed development, then in the event a protest is lodged pursuant to this section, that approval shall be suspended pending withdrawal of the protest, the expiration of the limitation period of subdivision (d) without the filing of an action, or resolution of any action filed. This subdivision confers no new or independent authority for imposing fees, taxes, assessments, dedications, reservations, or other exactions not presently governed by other law.

(d) A protest filed pursuant to subdivision (a) shall be filed at the time of approval or conditional approval of the development or within 90 days after the date of the establishment of the imposition of the fees, taxes, assessments, dedications, reservations, or other exactions to be imposed on a residential housing development. Any party who files a protest pursuant to subdivision (a) may file an action to attack, review, set aside, void, or annul the imposition of the fees, taxes, assessments, dedications, reservations, or other exactions imposed on a residential housing development by a city, county, city and county, or any other local public entity within 180 days after the

date of the establishment of the imposition. Thereafter, notwithstanding any other law to the contrary, all persons are barred from any action or proceeding or any defense of invalidity or unreasonableness of the imposition. Any such proceeding shall take precedence over all matters of the calendar of the court except criminal, probate, eminent domain, forcible entry, and unlawful detainer proceedings.

(e) If the court finds in favor of the plaintiff in any action or proceeding brought pursuant to subdivision (d), the court shall direct the city, county, city and county, or any other local public entity to refund the unlawful portion of the payment, with interest at the rate of 8 percent per annum, or return the unlawful portion of the exaction imposed.

(f) Approval or conditional approval of a development occurs, for the purposes of this section, when the tentative map, tentative parcel map, or parcel map is approved or conditionally approved or when the parcel map is recorded if a tentative map or tentative parcel map is not required.

(g) The establishment of the imposition of fees, taxes, assessments, dedications, reservations, or other exactions occurs, for the purposes of this section, when they are imposed or levied on a specific development.

SEC. 2. Section 65958 is added to the Government Code, to read:

65958. Any party may protest, as provided in Sections 65913.5 and 66475.4, the establishment or imposition of any fees, taxes, assessments, dedications, reservations, or other exactions imposed on any development, as defined by Section 65927, or development project, as defined by Section 65928. If a party files a protest under both Sections 65913.5 and 66475.4, Section 66475.4 shall prevail over Section 65913.5 to the extent of any conflict between those two sections.

CHAPTER 672

An act to amend Section 13517 of the Penal Code, relating to peace officers.

[Approved by Governor September 17, 1985 Filed with Secretary of State September 18, 1985]

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

SECTION 1. Section 13517 of the Penal Code is amended to read:

13517. (a) The commission shall prepare guidelines establishing standard procedures which may be followed by police agencies in the detection, investigation, and response to cases in which a minor is a victim of an act of abuse or neglect prohibited by this code. The guidelines shall include procedures for determining whether or not

a child should be taken into protective custody. The guidelines shall also include procedures for minimizing the number of times a child is interviewed by law enforcement personnel.

(b) The course of training leading to the basic certificate issued by the commission shall, not later than July 1, 1979, include adequate instruction in the procedures described in subdivision (a).

(c) The commission shall prepare and implement an optional course of training of specialists in the investigation of cases in which a minor is a victim of an act of abuse or neglect prohibited by this code.

(d) The commission shall consult with the State Office of Child Abuse Prevention in developing the guidelines and optional course of training.

CHAPTER 673

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

[Approved by Governor September 17, 1985 Filed with Secretary of State September 18, 1985]

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

SECTION 1. The Bridgeville School District desires to use a structure that does not conform to the so-called Field Act, for classroom purposes. The one-story structure is the only classroom building in the Bridgeville Elementary School that was constructed prior to 1978. It is necessary that this structure be used pending replacement of the facility by the district pursuant to the Leroy F. Greene State School Building Lease-Purchase Law of 1976.

SEC. 2. The governing board of the Modoc Joint Unified School District needs to conduct a continuation high school program in three classrooms of a school building in Alturas that does not conform to the so-called Field Act. As the district is unable under present law to sell bonds or to levy and collect an additional property tax to pay for a lease-purchase of additional buildings, it is necessary that the existing building be used for that purpose if the continuation high school program is to continue to exist.

SEC. 3. Notwithstanding Section 39227 of the Education Code, the governing board of the Bridgeville School District may use the existing structure described in Section 1 for classroom purposes from the effective date of this act until January 1, 1990, upon which date this act is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1990, deletes or extends the date on which the act is repealed. During the period of use authorized by this section, the structure shall not be subject to Article 3 (commencing with Section 39140) or Article 6 (commencing with Section 39210)

of Chapter 2 of Part 23 of the Education Code.

SEC. 4. Notwithstanding Section 39227 of the Education Code, the governing board of the Modoc Joint Unified School District may use the existing school building in Alturas, described in Section 2 of this act, to conduct a continuation high school program until permanent replacement facilities for this purpose are constructed and ready for occupancy, or until June 30, 1988, whichever occurs earlier. During the period of continued use authorized by this section, the buildings shall not be subject to Article 3 (commencing with Section 39140) or Article 6 (commencing with Section 39210) of Chapter 2 of Part 23 of the Education Code.

SEC. 5. Due to the unique circumstances specified in Sections 1 and 2 of this act concerning the Bridgeville School District and the Modoc Joint Unified School District, the Legislature finds and declares that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution

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

In order to permit the Bridgeville School District and the Modoc Joint Unified School District to use structures that do not satisfy Field Act standards, so that their classes may be operated without interruption or delay, it is necessary that this act take effect immediately.

CHAPTER 674

An act to amend Section 17010 of the Health and Safety Code, relating to employee housing.

[Approved by Governor September 17, 1985 Filed with Secretary of State September 18, 1985.]

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

SECTION 1. Section 17010 of the Health and Safety Code is amended to read:

17010. (a) "Temporary labor camp," as used in this part, means a labor camp which is not operated on the same site annually and which is established for one operation and is then removed.

(b) "Seasonal labor camp," as used in this part, means any camp which is operated annually on the same site and which is occupied for not more than 180 days in any calendar year.

(c) "Permanent labor camp," as used in this part, means any labor camp which is not temporary or seasonal.

(d) "Permanent housing," as used in this part, means single-family detached dwellings, mobilehomes, as defined in

Section 18008, manufactured homes, as defined in Section 18007, or factory-built housing, as defined in Section 19971, constructed and maintained in accordance with applicable state or federal laws, including required permits and inspections. Each dwelling shall be inhabited by only one family, which includes at least one permanent year-round employee.

SEC. 1.3. Section 17010 of the Health and Safety Code is amended to read:

17010. (a) "Temporary labor camp," as used in this part, means a labor camp which is not operated on the same site annually and which is established for one operation and is then removed.

(b) "Seasonal labor camp," as used in this part, means any camp which is operated annually on the same site and which is occupied for not more than 180 days in any calendar year.

(c) "Permanent labor camp," as used in this part, means any labor camp which is not temporary or seasonal.

(d) "Permanent housing," as used in this part, means single-family detached dwellings, mobilehomes, as defined in Section 18008, manufactured homes, as defined in Section 18007, or factory-built housing, as defined in Section 19971, constructed and maintained in accordance with applicable state or federal laws, including required permits and inspections. Each dwelling shall be inhabited by only one family, which includes at least one permanent year-round employee. "Permanent housing" does not include housing accommodations or property, as defined in subparagraph (D) of paragraph (1) of subdivision (b) of Section 17008.

SEC. 1.5. Section 1.3 of this act shall become operative only if SB 696 of the 1985–86 Regular Session amends Section 17008 of the Health and Safety Code and becomes operative and effective on January 1, 1986, in which case Section 1.3 of this act shall become operative on January 1, 1986 and Section 1 shall not become operative.

SEC. 2. No reimbursement is required by this act pursuant to 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 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 675

An act to amend Sections 50152, 50404, 50407, 50408, 50450, 50451, 50452, and 50459 of the Health and Safety Code, relating to housing.

[Approved by Governor September 17, 1985 Filed with Secretary of State September 18, 1985.]

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

SECTION 1. Section 50152 of the Health and Safety Code is amended to read:

50152. The department shall be the principal state department responsible for coordinating federal-state relationships in housing and community development, except for housing finance, and for evaluating the operations and accomplishments of other state departments as they affect housing and community development. The department shall have primary responsibility for development and implementation of housing policy.

In addition, the department shall be the primary agency in the implementation of that policy. The types of programs for which the department is responsible include, but are not limited to, technical assistance, rental subsidies, predevelopment loans, loans and grants for solar energy installation, grants and loans for the construction and rehabilitation of housing for persons and families of low or moderate income, and financial and other assistance to local public entities and nonprofit organizations for housing-related services. The department is also responsible for the development and enforcement of building and housing standards and regulations as provided by law to protect the public's health and safety. Nothing in this section is, however, intended to supersede Part 1.5 (commencing with Section 17910) of Division 13.

All housing programs not expressly assigned to other agencies shall be assigned to the department for implementation.

SEC. 1.5. Section 50404 of the Health and Safety Code is amended to read:

50404. The work of the department shall be divided into the following three divisions:

(a) The Division of Codes and Standards.

(b) The Division of Housing Policy Development.

(c) The Division of Community Affairs.

SEC. 2. Section 50407 of the Health and Safety Code is amended to read:

50407. The department is the principal state department responsible for coordinating federal-state relationships in housing and community development, except for housing finance. The department is the principal state department responsible for implementation of the California Statewide Housing Plan. The department shall continually evaluate the impact upon the state of federal policies and programs affecting housing and community development and encourage full utilization of federal programs available for assisting the residents of this state, the private housing industry, and local public entities in satisfying housing and community development needs in this state. The department shall encourage and assist housing and community development in rural areas and among Indian residents of the state. The department shall encourage mutual self-help projects, home management training,

and relocation assistance. The department shall promote maximum utilization of federal subsidies available to meet housing needs of very low income households and other persons and families of low or moderate income, or both. The department shall assist communities and persons to avail themselves of state housing programs.

SEC. 3. Section 50408 of the Health and Safety Code is amended to read:

50408. (a) On or before December 31 of each year, the department shall submit an annual report to the Governor and both houses of the Legislature on the operations and accomplishments during the previous fiscal year of the housing programs administered by the department.

(b) The report shall include all of the following information:

(1) The number of units assisted by those programs.

(2) The number of individuals and households served and their income levels.

(3) The distribution of units among various areas of the state.

(4) The amount of other public and private funds leveraged by the assistance provided by those programs.

(5) Information detailing the assistance provided to various groups of persons by programs that are targeted to assist those groups.

SEC. 4. Section 50450 of the Health and Safety Code is amended to read:

50450. There is a California Statewide Housing Plan that was developed in cooperation with the private housing industry as well as regional and local housing and planning agencies and other agencies of the state. The plan serves as a state housing plan for all relevant purposes.

SEC. 5. Section 50451 of the Health and Safety Code is amended to read:

50451. The California Statewide Housing Plan shall incorporate a statement of housing goals, policies, and objectives, as well as all of the following segments:

(a) An evaluation and summary of housing conditions throughout the State of California, with particular emphasis upon the availability of housing for all economic segments of the state. The evaluation shall include summary statistics for all counties, all multicounty metropolitan areas, and rural areas, as defined and designated by the Bureau of the Census of the United States Department of Commerce, rather than as defined in Section 50101. The evaluation shall include the existing distribution of housing by type, size, gross rent, value, and, to the extent data is available, condition, and of the existing distribution of households by gross income, size, and ethnic character for each such area.

(b) Housing development goals for the fiscal year the plan is revised and projected four additional fiscal years ahead. The goals shall be established as the minimum number of units necessary to be

built or rehabilitated by the fourth subsequent fiscal year, in order to provide sufficient housing to house all residents of the state in standard, uncrowded units in suitable locations.

(c) Goals for the provision of housing assistance for the fiscal year the plan is revised and projected four additional fiscal years ahead. The goals shall be established as the minimum number of households to be assisted which will result in achieving by the fourth subsequent fiscal year, a substantial reduction in the number of very low income households and other persons and families of low or moderate income constrained to pay more than 25 percent of their gross income for housing. Income groups to be considered in establishing the goals shall be designated by the department and shall include households a significant number of which are required to pay more than 25 percent of their gross income for housing in the fiscal year the plan is revised, as determined by the department.

(d) An identification of market constraints and obstacles and specific recommendations for their removal.

(e) An analysis of state and local housing and building codes and their enforcement. The analysis shall include consideration of whether those codes contain sufficient flexibility to respond to new methods of construction and new materials.

(f) Recommendations for actions by federal, state, and local governments and the private sector which will contribute to the attainment of the housing goals established for California.

SEC. 6. Section 50452 of the Health and Safety Code is amended to read:

50452. The department shall biennially update and provide a revision of the California Statewide Housing Plan to the Legislature. The revisions shall contain all of the following segments:

(a) A comparison of the housing construction goals for the preceding two fiscal years with the amount of building permits issued and mobilehome units sold in those fiscal years.

(b) A revision of the minimum housing construction and rehabilitation goals specified in subdivision (b) of Section 50451 for the current year and projected four additional fiscal years ahead.

(c) A revision of the housing assistance goals specified in subdivision (c) of Section 50451 for the current year and projected four additional fiscal years ahead.

(d) A revision of the evaluation required by subdivision (a) of Section 50451 as new census or other survey data become available. The revision shall contain an evaluation and summary of housing conditions throughout the state and may highlight data for multicounty or regional areas, as determined by the department. The revision shall include a discussion of the housing needs of various population groups such as elderly persons, disabled persons, large families, families where a female is the head of the household, and farmworker households.

(e) An updating of recommendations for actions by federal, state, and local governments and the private sector which will facilitate the

attainment of housing goals established for California.

The Legislature may review the plan and the updates of the plan and transmit its comments on the plan or updates of the plan to the Governor, the Secretary of the Business, Transportation, and Housing Agency, and the Director of Housing and Community Development.

SEC. 7. Section 50459 of the Health and Safety Code is amended to read:

50459. The department may adopt, and from time to time revise, guidelines for the preparation of housing elements required by Section 65302 of the Government Code.

The department shall review local housing elements for conformity with the requirements of Section 65302 of the Government Code and the guidelines, if any, and report its findings. The department may, in connection with any loan or grant application submitted to the agency, require submission to the department for review of any local housing element and any local housing assistance plan adopted pursuant to the Housing and Community Development Act of 1974 (P.L. 93-383).

CHAPTER 676

An act to add Sections 38026 and 38026.5 to the Vehicle Code, relating to off-highway vehicles.

[Approved by Governor September 17, 1985 Filed with Secretary of State September 18, 1985]

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

SECTION 1. Section 38026 is added to the Vehicle Code, to read:

38026. (a) In addition to Section 38025 and after complying with subdivision (c), if a local authority or the Director of Parks and Recreation finds that a highway, or a portion thereof, under the jurisdiction of the authority or the director, as the case may be, is located in such a manner as to provide a connecting link between off-highway motor vehicle trail segments, between an off-highway motor vehicle recreational use area and necessary service facilities, or between lodging facilities and an off-highway motor vehicle recreational facility and if it is found that the highway is designed and constructed so as to safely permit the use of regular vehicular traffic and also the driving of off-highway motor vehicles on that highway, the local authority, by resolution or ordinance, or the Director of Parks and Recreation, as the case may be, may designate that highway, or a portion thereof, for combined use and shall prescribe rules and regulations therefor. No highway, or portion thereof, shall be so designated for a distance of more than three miles. No freeway shall be designated under this section.

(b) The Off-Highway Motor Vehicle Recreation Commission may propose highway segments for consideration by local authorities or the Director of Parks and Recreation for combined use.

(c) Prior to designating a highway or portion thereof on the motion of either the local authority or the Director of Parks and Recreation, or as a recommendation of the Off-Highway Motor Vehicle Recreation Commission, a local authority or the Director of Parks and Recreation shall notify the Commissioner of the California Highway Patrol, and shall not designate any segment pursuant to subdivision (a) which, in the opinion of the commissioner, would create a potential traffic safety hazard.

(d) A designation of a highway, or a portion thereof, under subdivision (a) shall become effective upon the erection of appropriate signs of a type approved by the Department of Transportation on and along the highway, or portion thereof.

The cost of the signs shall be reimbursed from the Off-Highway Vehicle Fund, when appropriated by the Legislature, or by expenditure of funds from a grant made pursuant to Section 5090.50 of the Public Resources Code.

SEC. 2. Section 38026.5 is added to the Vehicle Code, to read:

38026.5. (a) Notwithstanding Section 4000, a motor vehicle issued a plate or device pursuant to Section 38160 may be operated or driven on a local highway, or a portion thereof, which is designated pursuant to Section 38026 if the operation is in conformance with the Vehicle Code and the vehicle complies with off-highway vehicle equipment requirements specified in this division.

(b) Notwithstanding subdivision (a), it is unlawful for any person using an off-highway vehicle on a combined-use highway to do any of the following:

(1) Operate an off-highway motor vehicle on the highway during the hours of darkness.

(2) Operate any vehicle on the highway which does not have an operational stoplight.

(3) Operate any vehicle on the highway which does not have rubber tires.

(4) Operate any vehicle without a valid driver's license of the appropriate class for the vehicle operation in possession.

(5) Operate any vehicle on the highway without complying with the provisions of Article 2 (commencing with Section 16020) of Chapter 1 of Division 7.

SEC. 3. No reimbursement is required by this act pursuant to 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 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 677

An act to amend Section 330.7 of the Penal Code, relating to crimes, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 17, 1985. Filed with Secretary of State September 18, 1985]

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

SECTION 1. Section 330.7 of the Penal Code is amended to read:

330.7. (a) It shall be a defense to any prosecution under this chapter relating to slot machines, as defined in subdivision (2) of Section 330b, if the defendant shows that the slot machine is an antique slot machine and was not operated for gambling purposes while in the defendant's possession. For the purposes of this section, the term "antique slot machine" means a slot machine manufactured in the United States of which two-thirds or more, by count, of the visible exterior metal components (excluding fasteners) are original equipment manufactured prior to 1956; provided, however, that if the machine has a front or top casting, or both, the front casting or the top casting must have been manufactured prior to 1956.

(b) Notwithstanding Section 335a, whenever the defense provided by subdivision (a) is offered, no slot machine seized from any defendant shall be destroyed or otherwise altered until after a final court determination that such defense is not applicable. If the defense is applicable, any such slot machine shall be returned pursuant to provisions of law providing for the return of property.

(c) It is the purpose of this section to protect the collection and restoration of antique slot machines not presently utilized for gambling purposes because of their aesthetic interest and importance in California history.

SEC. 2. No reimbursement is required by this act pursuant to 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 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:

Because of the confusion in the law interpreting the term "antique slot machines" it is essential that this clarifying legislation take effect immediately.

CHAPTER 678

An act to amend Section 3247 of the Civil Code, and to add Section 7103 to the Public Contract Code, relating to public contracts.

[Approved by Governor September 17, 1985 Filed with Secretary of State September 18, 1985]

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

SECTION 1. Section 3247 of the Civil Code is amended to read:

3247. (a) Every original contractor to whom is awarded a contract by a public entity, except as provided in subdivision (d) of Section 7103 of the Public Contract Code, involving an expenditure in excess of twenty-five thousand dollars ($25,000) for any public work shall, before entering upon the performance of the work, file a payment bond with and approved by the officer or public entity by whom the contract was awarded.

A public entity shall state in its call for bids for any such contract that a payment bond is required in the case of such an expenditure.

(b) A payment bond filed and approved in accordance with this section shall be sufficient to enter upon the performance of work under a duly authorized contract which supplements the contract for which such payment bond was filed, if the requirement of a new bond is waived by the public entity.

(c) For purposes of this section, providers of architectural, engineering, and land surveying services pursuant to a contract with a public entity for any public work shall not be deemed an original contractor and shall not be required to post or file the payment bond required in subdivisions (a) and (b). This subdivision shall apply to all contracts entered into subsequent to January 1, 1971.

The amendment to this section made during the 1980 portion of the 1979–80 Regular Session of the Legislature by Chapter 293 of the Statutes of 1980, does not constitute a change in, but is declaratory of, existing law.

SEC. 2. Section 7103 is added to the Public Contract Code, to read:

7103. (a) Every original contractor to whom is awarded a contract by a state entity, as defined in subdivision (d), involving an expenditure in excess of five thousand dollars ($5,000) for any public work shall, before entering upon the performance of the work, file a payment bond with and approved by the officer or state entity by whom the contract was awarded.

The state entity shall state in its call for bids for any contract that a payment bond is required in the case of such an expenditure.

(b) A payment bond filed and approved in accordance with this section shall be sufficient to enter upon the performance of work under a duly authorized contract which supplements the contract for which such payment bond was filed, if the requirement of a new

bond is waived by the state entity.

(c) For purposes of this section, providers of architectural, engineering, and land surveying services pursuant to a contract with a state entity for any public work shall not be deemed an original contractor and shall not be required to post or file the payment bond required in subdivisions (a) and (b).

(d) For purposes of this section, "state entity" means every state office, department, division, bureau, board, or commission, but does not include the Legislature, the courts, any agency in the judicial branch of government, or the University of California. All other public entities shall be governed by the provisions of Section 3247 of the Civil Code.

(e) For purposes of this section, "public work" includes the erection, construction, alteration, repair or improvement of any state structure, building, road, or other state improvement of any kind.

CHAPTER 679

An act to amend Section 4850 of, and to repeal Section 4850.1 of, the Vehicle Code, relating to vehicles.

[Approved by Governor September 17, 1985 Filed with Secretary of State September 18, 1985]

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

SECTION 1. Section 4850 of the Vehicle Code is amended to read:

4850. (a) The department, upon registering a vehicle, shall issue to the owner two partially or fully reflectorized license plates or devices for a motor vehicle, other than a motorcycle, and one partially or fully reflectorized license plate or device for all other vehicles required to be registered under this code. The plates or devices shall identify the vehicles for which they are issued for the period of their validity.

(b) Notwithstanding any other provision of law, no contract shall be let to any nongovernmental entity for the purchase or securing of reflectorized material for the plates, unless the department has made every reasonable effort to secure qualified bids from as many independent, responsible bidders as possible. No contract shall be let to any nongovernmental entity for the manufacturing of reflectorized safety license plates.

(c) In addition to any other fees specified in this code, a fee of one dollar ($1) for reflectorization shall be paid only by those vehicle owners receiving license plates or devices under this section.

(d) This section does not require vehicle owners with nonreflectorized license plates or devices to replace them with reflectorized plates or devices

(e) This section shall be known as the Schrade-Belotti Act.

SEC. 2. Section 4850.1 of the Vehicle Code is repealed.

SEC. 3. The Department of Motor Vehicles shall submit a report, together with its recommendations, to the Legislature on or before July 1, 1987. The report shall include:

(a) The license plate production volumes for the fiscal year 1985–86 and fiscal year 1986–87 through April 30, 1987.

(b) The license plate production costs for the same period.

(c) A comparison of volumes and costs for license plates under the optional reflectorized license plate program and the mandatory reflectorized license plate program.

SEC. 4. Sections 1 and 2 of this act shall become operative on January 1, 1987.

CHAPTER 680

An act to amend Sections 39520, 39521, 39522, 39642, 39657, 81450, 81452, and 81656 of the Education Code, and to amend Section 20652 of the Public Contract Code, relating to education.

[Approved by Governor September 17, 1985 Filed with Secretary of State September 18, 1985]

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

SECTION 1. Section 39520 of the Education Code is amended to read:

39520. (a) The governing board of any school district may sell for cash any personal property belonging to the district if the property is not required for school purposes, or if it should be disposed of for the purpose of replacement, or if it is unsatisfactory or not suitable for school use. There shall be no sale until notice has been given by posting in at least three public places in the district for not less than two weeks, or by publication for at least once a week for a period of not less than two weeks in a newspaper published in the district and having a general circulation there; or if there is no such newspaper, then in a newspaper having a general circulation in the district; or if there is no such newspaper, then in a newspaper having a general circulation in a county in which the district or any part thereof is situated. The board shall sell the property to the highest responsible bidder, or shall reject all bids.

(b) The governing board may choose to conduct any sale of personal property authorized under this section by means of a public auction conducted by employees of the district or other public agencies, or by contract with a private auction firm. The board may delegate to the district employee responsible for conducting the auction the authority to transfer the personal property to the highest responsible bidder upon completion of the auction and after

payment has been received by the district.

SEC. 2. Section 39521 of the Education Code is amended to read:

39521. (a) If the governing board, by a unanimous vote of those members present, finds that the property, whether one or more items, does not exceed in value the sum of two thousand five hundred dollars ($2,500), it may be sold at private sale without advertising, by any employee of the district empowered for that purpose by the board.

(b) Any item or items of property having previously been offered for sale pursuant to Section 39520, but for which no qualified bid was received, may be sold at private sale without advertising by any employee of the district empowered for that purpose by the board.

(c) If the board, by a unanimous vote of those members present, finds that the property is of insufficient value to defray the costs of arranging a sale, it may be disposed of in the local public dump on order of any employee of the district empowered for that purpose by the board.

SEC. 3. Section 39522 of the Education Code is amended to read:

39522. The money received from the sale shall be placed to the credit of the fund from which the original expenditure for the purchase of the property was made or in the general or reserve fund of the district.

SEC. 4. Section 39642 of the Education Code is amended to read:

39642. Notwithstanding Sections 20111 and 20112 of the Public Contract Code, the governing board of any school district without advertising for bids, if the board has determined it to be in the best interests of the district, may authorize by contract, lease, requisition, or purchase order, any public corporation or agency, including any county, city, town, or district, to lease data-processing equipment, purchase materials, supplies, equipment, automotive vehicles, tractors, and other personal property for the district in the manner in which the public corporation or agency is authorized by law to make the leases or purchases. Upon receipt of any such personal property, provided the property complies with the specifications set forth in the contract, lease, requisition, or purchase order, the school district may draw a warrant in favor of the public corporation or agency for the amount of the approved invoice, including the reasonable costs to the public corporation or agency for furnishing the services incidental to the lease or purchase of the personal property.

SEC. 5. Section 39657 of the Education Code is amended to read:

39657. The governing board by majority vote may adopt a rule, delegating to any officer or employee of the district as the board may designate, the authority to purchase supplies, materials, apparatus, equipment, and services. No such rule shall authorize any officer or employee to make any purchases involving an expenditure by the district in excess of the amount specified by Section 20111 of the Public Contract Code. The rule shall prescribe the limits of the delegation as to time, money, and subject matter. All transactions

entered into by the officer or employee shall be reviewed by the governing board every 60 days.

In the event of malfeasance in office, the school district officer or employee invested by the governing board with the power to contract shall be personally liable for any and all moneys of the district paid out as a result of the malfeasance.

SEC. 6. Section 81450 of the Education Code is amended to read:

81450. (a) The governing board of any community college district may sell for cash any personal property belonging to the district if the property is not required for school purposes, or if it should be disposed of for the purpose of replacement, or if it is unsatisfactory or not suitable for school use. There shall be no sale until notice has been given by posting in at least three public places in the district for not less than two weeks, or by publication for at least once a week for a period of not less than two weeks in a newspaper published in the district and having a general circulation there; or if there is no such newspaper, then in a newspaper having a general circulation in the district; or if there is no such newspaper, then in a newspaper having a general circulation in a county in which the district or any part thereof is situated. The board shall sell the property to the highest responsible bidder, or shall reject all bids.

(b) The governing board may choose to conduct any sale of personal property authorized under this section by means of a public auction conducted by employees of the district or other public agencies, or by contract with a private auction firm. The board may delegate to the district employee responsible for conducting the auction the authority to transfer the personal property to the highest reponsible bidder upon completion of the auction and after payment has been received by the district.

SEC. 7. Section 81452 of the Education Code is amended to read:

81452. (a) If the governing board, by a unanimous vote of those members present, finds that the property, whether one or more items, does not exceed in value the sum of two thousand five hundred dollars ($2,500), the property may be sold at private sale without advertising, by any employee of the district empowered for that purpose by the board.

(b) Any item or items of property having previously been offered for sale pursuant to Section 81450, but for which no qualified bid was received, may be sold at private sale without advertising by any employee of the district empowered for that purpose by the board.

(c) If the board, by a unanimous vote of those members present, finds that the property is of insufficient value to defray the costs of arranging a sale, the property may be disposed of in the local public dump on order of any employee of the district empowered for that purpose by the board.

SEC. 8. Section 81656 of the Education Code is amended to read:

81656. The governing board by majority vote may adopt a rule, delegating to any officer or employee of the district as the board may designate, the authority to purchase supplies, materials, apparatus,

equipment, and services. No such rule shall authorize any officer or employee to make any purchases involving an expenditure by the district in excess of the amount specified by Section 20651 of the Public Contract Code. The rule shall prescribe the limits of the delegation as to time, money, and subject matter. All transactions entered into by the officer or employee shall be reviewed by the governing board every 60 days.

In the event of malfeasance in office, the community college district officer or employee invested by the governing board with the power to contract shall be personally liable for any and all moneys of the district paid out as a result of the malfeasance.

SEC. 9. Section 20652 of the Public Contract Code is amended to read:

20652. Notwithstanding any other provisions of Sections 81640 to 81654, inclusive, of the Education Code, or of Sections 20651 to 20659, inclusive, of this code, the governing board of any community college district without advertising for bids, and when that board has determined it to be in the best interests of the district, may authorize by contract, lease, requisition, or purchase order, any public corporation or agency, including any county, city, town, or district, to lease data-processing equipment, purchase materials, supplies, equipment, automotive vehicles, tractors, and other personal property for the district in the manner in which the public corporation or agency is authorized by law to make the leases or purchases. Upon receipt of any such personal property, provided the property complies with the specifications set forth in the contract, lease, requisition, or purchase order, the community college district may draw a warrant in favor of the public corporation or agency for the amount of the approved invoice, including the reasonable costs to the public corporation or agency for furnishing the services incidental to the lease or purchase of the personal property.

CHAPTER 681

An act to amend Section 39512.5 of the Health and Safety Code, relating to air pollution, and making an appropriation therefor.

[Approved by Governor September 17, 1985 Filed with Secretary of State September 18, 1985]

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

SECTION 1. Section 39512.5 of the Health and Safety Code is amended to read:

39512.5. (a) With respect to the members appointed pursuant to subdivision (c) of Section 39510, those members shall serve without compensation but shall be reimbursed for actual and necessary expenses incurred in the performance of their duties to the extent

that reimbursement for expenses is not otherwise provided or payable by another public agency. Each elected public official member of the state board shall receive one hundred dollars ($100) for each day, or portion thereof, but not to exceed one thousand dollars ($1,000) in any month, attending meetings of the state board or committees thereof, or upon authorization of the state board while on official business of the state board.

(b) Reimbursements made pursuant to subdivision (a) shall be made by the district from which the person qualified for membership is appointed, except that the member appointed pursuant to paragraph (2) of subdivision (c) of Section 39510 shall be reimbursed by the state board. The district may use subvention funds available to it from the air pollution control subvention program pursuant to Chapter 5 (commencing with Section 39800) for the purposes of this section.

SEC. 2. The sum of six thousand dollars ($6,000) is hereby appropriated from the Motor Vehicle Account in the State Transportation Fund to the State Air Resources Board for expenditure during the 1985–86 fiscal year for purposes of the reimbursements required of the state board under subdivision (b) of Section 39512.5 of the Health and Safety Code.

CHAPTER 682

An act to amend Section 14103.6 of the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor September 17, 1985. Filed with Secretary of State September 18, 1985]

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

SECTION 1. Section 14103.6 of the Welfare and Institutions Code is amended to read:

14103.6. The director, or a carrier acting under regulations adopted by the director, may require that any individual provider must receive prior authorization before providing services when the director or carrier determines that the provider has been rendering unnecessary services.

At any time the director determines that it is necessary to postpone elective services pursuant to Section 14120, he shall require prior authorization for those services determined to be generally elective under the provisions of Section 14103.4, except a service which costs less than one hundred dollars ($100) or a lower amount determined by the director. Such lower amount may be applied generally or for specific services. The director may terminate the requirement for prior authorization when he determines that it is no longer necessary to postpone elective services.

Prior authorization for services provided by persons licensed under the provisions of Chapter 4 (commencing with Section 1600) and Chapter 7 (commencing with Section 3000) of Division 2 of the Business and Professions Code shall be determined by consultants licensed under Chapter 4 or Chapter 7 respectively. Prior authorization for all other elective services shall be determined by consultants licensed under the provisions of Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code, provided, however, that prior authorization for pharmaceutical services may be determined by persons licensed under the provisions of Chapter 9 (commencing with Section 4000) of Division 2 of the Business and Professions Code, and prior authorization for services provided in an inpatient setting may be reviewed and approved, but not denied, by a person licensed under the provisions of Chapter 6 (commencing with Section 2700) of Division 2 of the Business and Professions Code, working under the supervision of a consultant licensed under the provisions of Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code.

The consultants shall render decisions on prior authorization requests in a timely manner. A timely manner shall be deemed to be an average of five working days after the prior authorization request is received by the department. A decision shall be an approval, denial, modification, or request for additional information. A supplemental authorization request submitted with additional information requested by a consultant shall be processed in a timely manner as if it were an original authorization request. If no decision on a prior authorization request is rendered by the consultant within 30 days of receipt by the department, the request shall be deemed to be approved. Final decisions of the department on all requests for prior authorization shall be reviewable under the department's provider appeal and fair hearing procedures. If the request is denied, the department shall send notice to the provider and beneficiary of the right to appeal the decision.

In no event shall prior authorization be required when there is a bona fide emergency requiring immediate treatment.

SEC. 2. The amendments made to Section 14103.6 of the Welfare and Institutions Code by Section 1 of this act shall not become operative unless and until the State Director of Health Services has received a determination from the Secretary of the United States Department of Health and Human Services that the implementation of those amendments will not result in the denial of federal financial participation under the Medicaid program, provided for pursuant to Title 19 of the federal Social Security Act (42 U.S.C. Sec. 1396 et seq.). The State Director of Health Services shall, immediately request, upon the effective date of this act, a determination from the Secretary of the United States Department of Health and Human Services as to whether the amendments made to Section 14103.6 of the Welfare and Institutions Code pursuant to Section 1 of this act will result in a denial of federal financial participation.

CHAPTER 683

An act to amend Section 101.1 of, and to add Section 91.5 to, the Streets and Highways Code, relating to state highways.

[Approved by Governor September 17, 1985 Filed with Secretary of State September 18, 1985.]

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

SECTION 1. Section 91.5 is added to the Streets and Highways Code, to read:

91.5. The department may enter into an agreement to accept funds or services from any person for maintenance of a section of a state highway. The department and the sponsoring person may specify in the agreement the level of maintenance that will be performed.

The director may authorize a courtesy sign. These courtesy signs shall be consistent with existing code provisions and department rules and regulations concerning signs.

SEC. 2. Section 101.1 of the Streets and Highways Code is amended to read:

101.1. (a) The department may place the state's 9-1-1 emergency telephone number on road signs on all state highways at state entry points and county, city, and town limit entry points. The department shall place and maintain, or cause to be placed and maintained, on all state highways at the city limit of each incorporated city and at the limits of each unincorporated town, as determined by the department, a uniform road sign which sets forth the name of the city or town, its population, and its altitude, as determined by the department. Where the limits of a county, city, or town intersect a state highway at more than two points, the department, in its discretion, need erect the signs only at each of the two outermost points on the state highway where the intersection occurs.

(b) The department shall adopt specifications to provide for uniform signs of permanent character setting forth the information required in subdivision (a). The emergency telephone numbers shall be added to the road signs in subdivision (a) only when the signs are changed for other purposes.

CHAPTER 684

An act to amend Section 14133.9 of the Welfare and Institutions Code, relating to medical assistance.

[Approved by Governor September 17, 1985 Filed with Secretary of State September 18, 1985.]

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

SECTION 1. Section 14133.9 of the Welfare and Institutions Code is amended to read:

14133.9. The implementation of prior authorization permitted by subdivision (a) of Section 14133 shall be subject to all of the following provisions:

(a) The department shall secure a toll free phone number for the use of providers of Medi-Cal services listed in Section 14132. For providers, the department shall provide access to an individual knowledgeable in the program to provide Medi-Cal providers with information regarding available services. Access shall include a toll free phone number that provides reasonable access to that person. The number shall be operated 24 hours a day, seven days a week.

(b) For major categories of treatment subject to prior authorization, the department shall publicize and continue to develop its list of objective medical criteria that indicate when authorization should be granted. Any request meeting these criteria, as determined by the department, shall be approved unless contraindicated by specific medical information.

(c) The objective medical criteria required by subdivision (d) shall be adopted and published in accordance with the Administative Procedure Act, and shall be made available at appropriate cost.

(d) When a proposed treatment meets objective medical criteria, and is not contraindicated, authorization for the treatment shall be provided within an average of five working days. When a treatment authorization request is not subject to objective medical criteria, a decision on medical necessity shall be made by a professional medical employee or contractor of the department within an average of five working days.

(e) The department shall submit to the Legislature, every three months, its treatment authorization request status report.

(f) Final decisions of the department on denial of requests for prior authorization for inpatient acute hospital care shall be reviewable upon request of a provider by a Professional Standards Review Organization established pursuant to Public Law 92-603, or a successor organization if either of the following applies:

(1) The original decision on the request was not performed by a Professional Standards Review Organization, or its successor organization.

(2) The original decision on the request was performed by a Professional Standards Review Organization, or its successor organization, and the original decision was reversed by the department. The department shall contract with one or more of these organizations to, among other things, perform the review function required by this subdivision. The review performed by the

contracting organization shall result in a finding that the department's decision is either appropriate or unjustified, in accordance with existing law, regulation, and medical criteria. The cost of each review shall be borne by the party that does not prevail.

The decision of this body shall be reviewable by civil action.

(g) This section, and any amendments made to Section 14103.6 by Assembly Bill 2254 of the 1985–86 Regular Legislative Session, shall not apply to treatment or services provided under contracts awarded by the department under which the contractor agrees to assume the risk of utilization or costs of services.

CHAPTER 685

An act to amend Section 99231 of the Public Utilities Code, relating to transit.

[Approved by Governor September 17, 1985 Filed with Secretary of State September 18, 1985.]

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

SECTION 1. Section 99231 of the Public Utilities Code is amended to read:

99231. All operators and city or county governments with responsibility for providing municipal services to a given area collectively may file claims for only those moneys that represent that area's apportionment.

The term "apportionment" has reference to that proportion of the total annual revenue anticipated to be received in the fund that the population of the area bears to the total population of the county.

The term "area" means:

(a) With reference to a transit district, the entire area stated in its enabling legislation or franchise, excluding cities therein which have retained the right to join the district at a later time.

(b) With reference to a transit development board, the entire area stated in its enabling legislation, including the municipalities therein which operated bus systems prior to the creation of the board and subsequently conveyed such systems to the board.

(c) With reference to a county government, the unincorporated area of the county.

(d) With reference to a city government, the corporate area of the city.

(e) With reference to the City and County of San Francisco and the Counties of Alameda and Contra Costa, the unincorporated area thereof (and with reference to a city in those counties, the corporate area of the city) which is outside the area of the Alameda-Contra Costa Transit District and which is not receiving adequate local public transportation services, as determined by the Metropolitan

Transportation Commission pursuant to subdivision (b) of Section 99207.

(f) Where a transit district, a transit development board, or a county or city, provides public transportation services beyond its boundaries, its area, for purposes of this section, shall also include:

(1) All of that area within one-half mile of any route which extends beyond its boundaries.

(2) All of the corporate area of a city to which it provides such services pursuant to contract or prior express authority of the secretary.

The transportation planning agency may rely, in its determination of populations, on estimates which are used by the State Controller for distributing money to cities under Section 2107 of the Streets and Highways Code and to counties under Section 11005 of the Revenue and Taxation Code, and may contract with the Department of Finance or other appropriate state agency for an annual determination of such population estimates as may be necessary.

(g) With reference to the County of Riverside, the area within the jurisdiction of the transit operator established by the joint exercise of powers of one or more cities and the County of Riverside. The area within the jurisdiction of the transit operator shall be as it existed on January 1, 1981, as determined by the Riverside County Transportation Commission.

(h) With reference to the County of San Bernardino, the area within the jurisdiction of the transit operator established by the joint exercise of powers of one or more cities, including the most populous city, and the County of San Bernardino. The area within the jurisdiction of the transit operator shall be as it existed on January 1, 1985, as determined by the San Bernardino County Transportation Commission.

CHAPTER 686

An act to amend Section 14512 of the Food and Agricultural Code, relating to fertilizer, and making an appropriation therefor.

[Approved by Governor September 17, 1985 Filed with Secretary of State September 18, 1985]

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

SECTION 1. Section 14512 of the Food and Agricultural Code is amended to read:

14512. "Agricultural mineral" means any substance with nitrogen, available phosphoric acid, and soluble potash, singly or in combination, in amounts less than 5 percent, or containing recognized essential available secondary or micro plant nutrients in amounts equal or greater than minimum amounts specified by the

director by regulation, and distributed in this state as a source of these elements for the purpose of promoting plant growth. It shall include gypsum, liming materials, treated manure, and sewage sludge not qualifying as commercial fertilizer. Captured dilute solutions containing low levels of plant nutrients, including nitrogen, as a result of equipment rinsing and runoff at licensed fertilizer plants are included in this section, may be registered as agricultural minerals, and are therefore regulated by the director pursuant to this chapter.

CHAPTER 687

An act to amend Sections 8402, 8406, and 8407 of, to repeal Section 8410 of, and to add Sections 8406.6 and 8406.7 to the Education Code, relating to child care and development services.

[Approved by Governor September 17, 1985. Filed with Secretary of State September 18, 1985]

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

SECTION 1. Section 8402 of the Education Code is amended to read:

8402. The State Department of Education shall provide an independent appeal procedure to each contracting agency providing child care and development services pursuant to Section 8262. Prior to filing an appeal petition, the contracting agency shall have submitted all previously required standard monthly or quarterly reporting forms to the State Department of Education. The appeal procedure shall be conducted by the Office of Administrative Hearings and shall be provided upon petition of the contracting agency in any of the following circumstances:

(a) Termination or suspension of a contracting agency's contract.

(b) Denial of more than 4 percent or twenty-five thousand dollars ($25,000), whichever is less, of a local contracting agency's contracted payment for services schedule.

(c) Demand for remittance of an overpayment of more than 4 percent or twenty-five thousand dollars ($25,000), whichever is less, of a local contracting agency's annual contract.

SEC. 2. Section 8406 of the Education Code is amended to read:

8406. All actions by the State Department of Education, as defined in subdivisions (a) to (c), inclusive, of Section 8402 shall be preceded by a written notice of action to the local contracting agency which shall include the following:

(a) A statement of the specific reasons for the action in the Statement of Issues.

(b) A description of the local contracting agency's rights and responsibilities concerning the appeal procedure described herein.

SEC. 3. Section 8406.6 is added to the Education Code, to read:

8406.6. The Superintendent of Public Instruction shall establish a contract classification system for purposes of identifying, monitoring, and providing technical assistance to contractors as follows:

(a) Clear contract. This designation shall be given to contracted agencies that are in full compliance with all applicable statutory provisions, funding terms and conditions, and applicable program quality guidelines.

(b) Provisional contract. This designation applies to existing contracted agencies, or agencies that are awarded a new contract for services. The time frame of a provisional contract is at the discretion of the State Department of Education and is given to ensure demonstrated fiscal and programmatic compliance before granting clear contract status. The contract status shall be reviewed annually.

(c) Conditional contract. This designation applies to high-risk contracted agencies that evidence fiscal and or programmatic noncompliance. These agencies shall not be eligible to apply for additional State Child Development program funds, and are subject to any restrictions deemed reasonable to secure compliance. The conditional contract shall include a bill of particulars detailing the items of noncompliance, the standards that must be met to avoid termination of contract and to qualify the agency for clear contract status, and technical assistance plan. Failure to demonstrate substantive progress toward fiscal or program compliance within six months of that designation shall constitute a breach of contract and be subject to termination for any applicable cause specified in Section 8406.7 or in accordance with Section 8402.

(d) Agencies with conditional contracts shall receive technical assistance from the Child Development Division of the State Department of Education.

SEC. 4. Section 8406.7 is added to the Education Code, to read:

8406.7. (a) Any agency that evidences chronic fiscal or program violations of a felony nature may have its contract suspended or terminated immediately, provided there is documented evidence thereof, and upon review and recommendation of the general counsel of the State Department of Education. A fiscal or programmatic violation constituting a breach of contract includes one or more of the following:

(1) Fraud, or conspiracy to defraud.

(2) Misuse of state funds in violation of the State of California Accounting Manual.

(3) Embezzlement.

(4) Threats of bodily or other harm to state officials.

(5) Bribery or attempted bribery of a state official.

(6) Unsafe or unhealthy physical environment or facility.

(7) Substantiated abuse or molestation of children.

(8) Failure to report suspected child abuse or molestation.

(9) Theft of supplies, equipment or food.

(b) An agency contract terminated for cause retains appeal rights

in accordance with Section 8402.

(c) The State Department of Education shall advise child care and development contractors of the provision of this section within 30 working days of its enactment.

SEC. 5. Section 8407 of the Education Code is amended to read:

8407. Except for causes listed in Section 8406.7, termination of existing funding shall not occur without good cause and without notice as described in Section 8406 at least 90 days prior to termination.

SEC. 6. Section 8410 of the Education Code is repealed.

CHAPTER 688

An act to amend Section 66452.6 of the Government Code, relating to subdivisions.

[Approved by Governor September 17, 1985 Filed with Secretary of State September 18, 1985.]

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

SECTION 1. Section 66452.6 of the Government Code, as amended by Section 3.5 of Chapter 1302 of the Statutes of 1984, is amended to read:

66452.6. (a) An approved or conditionally approved tentative map shall expire 24 months after its approval or conditional approval, or after any additional period of time as may be prescribed by local ordinance, not to exceed an additional 12 months.

(b) The period of time specified in subdivision (a) shall not include any period of time during which a development moratorium, imposed after approval of the tentative map, is in existence, provided however, that the length of the moratorium does not exceed five years.

Once a moratorium is terminated, the map shall be valid for the same period of time as was left to run on the map at the time that the moratorium was imposed. However, if the remaining time is less than 120 days, the map shall be valid for 120 days following the termination of the moratorium.

(c) The period of time specified in subdivision (a), including any extension thereof granted pursuant to subdivision (e), shall not include the period of time during which a lawsuit involving the approval or conditional approval of the tentative map is or was pending in a court of competent jurisdiction if the stay of the time period is approved by the local agency pursuant to this section. After service of the initial petition or complaint in the lawsuit upon the local agency, the subdivider may apply to the local agency for a stay pursuant to the local agency's adopted procedures. Within 40 days after receiving the application, the local agency shall either stay the

time period for up to five years or deny the requested stay. The local agency may, by ordinance, establish procedures for reviewing the requests, including, but not limited to, notice and hearing requirements, appeal procedures and other administrative requirements.

(d) The expiration of the approved or conditionally approved tentative map shall terminate all proceedings and no final map or parcel map of all or any portion of the real property included within the tentative map shall be filed with the legislative body pursuant to Section 66457 without first processing a new tentative map. Once a timely filing is made pursuant to Section 66457, subsequent actions of the local agency, including, but not limited to, processing, approving, and recording, may lawfully occur after the date of expiration of the tentative map.

(e) Upon application of the subdivider filed prior to the expiration of the approved or conditionally approved tentative map, the time at which the map expires may be extended by the legislative body or by an advisory agency authorized to approve or conditionally approve tentative maps for a period or periods not exceeding a total of three years. If the advisory agency denies a subdivider's application for extension, the subdivider may appeal to the legislative body within 15 days after the advisory agency has denied the extension.

(f) For purposes of this section, a development moratorium shall include a water or sewer moratorium or a water and sewer moratorium, as well as other actions of public agencies which regulate land use, development, or the provision of services to the land, other than the public agency with the authority to approve or conditionally approve the tentative map, which thereafter prevents, prohibits, or delays the approval of a final or parcel map. A development moratorium is deemed to exist for purposes of this section for any period of time during which a condition imposed by the city or county could not be satisfied because the condition was one which, by its nature, necessitated action by the city or county, and the city or county either did not take the necessary action or by its own action or inaction was prevented or delayed in taking the necessary action prior to expiration of the tentative map.

(g) The rights conferred by a vesting tentative map as provided by Chapter 4.5 (commencing with Section 66498.1) shall last for an initial time period as provided by ordinance but shall not be less than one year or more than two years beyond the recording of the final map. Where several final maps are recorded on various phases of a project covered by a single vesting tentative map, the one year initial time period shall begin for each phase when the final map for that phase is recorded.

The initial time period shall be automatically extended by any time used by the local agency for processing a complete application for a grading permit or for design or architectural review, if the time used by the local agency to process the application exceeds 30 days, from

the date that a complete application is filed. Any time prior to the expiration of the initial time period provided by this section, the subdivider may apply for a one-year extension. If the extension is denied by an advisory agency, the subdivider may appeal that denial to the legislative body within 15 days.

(h) If the subdivider submits a complete application for a building permit during the periods of time specified in subdivision (g), the rights conferred by Chapter 4.5 (commencing with Section 66498.1) shall continue until the expiration of that permit, or any extension of that permit granted by the local agency.

SEC. 1.5. Section 66452.6 of the Government Code, as amended by Section 3.5 of Chapter 1302 of the Statutes of 1984, is amended to read:

66452.6. (a) An approved or conditionally approved tentative map shall expire 24 months after its approval or conditional approval, or after any additional period of time as may be prescribed by local ordinance, not to exceed an additional 12 months. However, if the subdivider is subject to a requirement of one hundred thousand dollars ($100,000) or more to construct or improve or finance the construction or improvement of public improvements outside the boundaries of the tentative map, each filing of a final map authorized by Section 66456.1 shall extend the expiration of the approved or conditionally approved tentative map by 36 months from the date of its expiration as provided in this section, or the date of the previously filed final map, whichever is later. The extensions shall not extend the tentative map more than 10 years from its approval or conditional approval. However, a tentative map on property subject to a development agreement authorized by Article 2.5 (commencing with Section 65864) of Chapter 4 of Division 1 may be extended for the period of time provided for in the agreement, but not beyond the duration of the agreement. The number of phased final maps which may be filed shall be determined by the advisory agency at the time of the approval or conditional approval of the tentative map.

"Public improvements," as used in this subdivision, includes traffic controls, streets, roads, highways, freeways, bridges, overcrossings, street interchanges, flood control or storm drain facilities, sewer facilities, water facilities, and lighting facilities.

(b) The period of time specified in subdivision (a) shall not include any period of time during which a development moratorium, imposed after approval of the tentative map, is in existence, provided however, that the length of the moratorium does not exceed five years.

Once a moratorium is terminated, the map shall be valid for the same period of time as was left to run on the map at the time that the moratorium was imposed. However, if the remaining time is less than 120 days, the map shall be valid for 120 days following the termination of the moratorium.

(c) The period of time specified in subdivision (a), including any extension thereof granted pursuant to subdivision (e), shall not

include the period of time during which a lawsuit involving the approval or conditional approval of the tentative map is or was pending in a court of competent jurisdiction if the stay of the time period is approved by the local agency pursuant to this section. After service of the initial petition or complaint in the lawsuit upon the local agency, the subdivider may apply to the local agency for a stay pursuant to the local agency's adopted procedures. Within 40 days after receiving the application, the local agency shall either stay the time period for up to five years or deny the requested stay. The local agency may, by ordinance, establish procedures for reviewing the requests, including, but not limited to, notice and hearing requirements, appeal procedures and other administrative requirements.

(d) The expiration of the approved or conditionally approved tentative map shall terminate all proceedings and no final map or parcel map of all or any portion of the real property included within the tentative map shall be filed with the legislative body pursuant to Section 66457 without first processing a new tentative map. Once a timely filing is made pursuant to Section 66457, subsequent actions of the local agency, including, but not limited to, processing, approving, and recording, may lawfully occur after the date of expiration of the tentative map.

(e) Upon application of the subdivider filed prior to the expiration of the approved or conditionally approved tentative map, the time at which the map expires may be extended by the legislative body or by an advisory agency authorized to approve or conditionally approve tentative maps for a period or periods not exceeding a total of three years. If the advisory agency denies a subdivider's application for extension, the subdivider may appeal to the legislative body within 15 days after the advisory agency has denied the extension.

(f) For purposes of this section, a development moratorium shall include a water or sewer moratorium or a water and sewer moratorium, as well as other actions of public agencies which regulate land use, development, or the provision of services to the land, other than the public agency with the authority to approve or conditionally approve the tentative map, which thereafter prevents, prohibits, or delays the approval of a final or parcel map. A development moratorium is deemed to exist for purposes of this section for any period of time during which a condition imposed by the city or county could not be satisfied because the condition was one which, by its nature, necessitated action by the city or county, and the city or county either did not take the necessary action or by its own action or inaction was prevented or delayed in taking the necessary action prior to expiration of the tentative map.

(g) The rights conferred by a vesting tentative map as provided by Chapter 4.5 (commencing with Section 66498.1) shall last for an initial time period as provided by ordinance but shall not be less than one year or more than two years beyond the recording of the final

map. Where several final maps are recorded on various phases of a project covered by a single vesting tentative map, the one-year initial time period shall begin for each phase when the final map for that phase is recorded.

The initial time period shall be automatically extended by any time used by the local agency for processing a complete application for a grading permit or for design or architectural review, if the time used by the local agency to process the application exceeds 30 days, from the date that a complete application is filed. Any time prior to the expiration of the initial time period provided by this section, the subdivider may apply for a one-year extension. If the extension is denied by an advisory agency, the subdivider may appeal that denial to the legislative body within 15 days.

(h) If the subdivider submits a complete application for a building permit during the periods of time specified in subdivision (g), the rights conferred by Chapter 4.5 (commencing with Section 66498.1) shall continue until the expiration of that permit, or any extension of that permit granted by the local agency.

SEC. 2. Section 1.5 of this bill incorporates amendments to Section 66452.6 of the Government Code proposed by both this bill and AB 1624. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1986, (2) each bill amends Section 66452.6 of the Government Code, as amended by Section 3.5 of Chapter 1302 of the Statutes of 1984, and (3) this bill is enacted after AB 1624, in which case Section 1 of this bill shall not become operative.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution 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 689

An act to amend Section 10722 of the Public Contract Code, relating to state university contracts.

[Approved by Governor September 17, 1985 Filed with Secretary of State September 18, 1985]

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

SECTION 1. Section 10722 of the Public Contract Code is amended to read:

10722. Work on all projects shall be done under contract awarded to the lowest responsible bidder pursuant to this chapter, except that it may be done by day's labor under the direction of the trustees, by contract upon informal bids, or by a combination thereof:

(a) When the trustees determine that an emergency exists due to an act of God, earthquake, flood, storm, fire, landslide, public disturbance, vandalism, or other unexpected cause which results in damage to a state-owned building, state-owned real property, or any improvements thereon, for work and remedial measures which are required immediately and which are necessary to protect the public health, safety, and welfare.

The trustees shall annually, on or before December 31, report to the Department of Finance and the Joint Legislative Budget Committee the instances in which an exemption from the bidding process was allowed due to "unexpected causes."

(b) At any time after the approval of plans, specifications, and estimates of cost, if the trustees deem the advertising or award of a contract, the acceptance of any bid, or the acceptance of any further bids after the rejection of all submitted bids, is not in the best interests of the state.

CHAPTER 690

An act to amend Section 10450.6 of, to add Chapter 6.5 (commencing with Section 10470) to, and to repeal Article 3 (commencing with Section 10470) of Chapter 6 of, Part 1 of Division 4 of, the Business and Professions Code, relating to real estate.

[Approved by Governor September 17, 1985. Filed with Secretary of State September 18, 1985]

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

SECTION 1. Section 10450.6 of the Business and Professions Code is amended to read:

10450.6. There shall be separate accounts in the Real Estate Fund for purposes of real estate education and research and for purposes of recovery which shall be known respectively as the Education and Research Account and the Recovery Account. Fifteen percent of the amount of any license fee collected under this part shall be credited to the Education and Research Account and 5 percent of the amount of any license fee collected shall be credited to the Recovery Account. Funds in the Education and Research Account shall be used by the commissioner in accordance with Section 10451.5. The Recovery Account is a continuing appropriation for carrying out Chapter 6.5 (commencing with Section 10470).

SEC. 2. Article 3 (commencing with Section 10470) of Chapter 6 of Part 1 of Division 4 of the Business and Professions Code is repealed.

SEC. 3. Chapter 6.5 (commencing with Section 10470) is added to Part 1 of Division 4 of the Business and Professions Code, to read:

CHAPTER 6.5. REAL ESTATE RECOVERY PROGRAM

10470. If, on June 30 of any year, the balance remaining in the Recovery Account in the Real Estate Fund is less than two hundred thousand dollars ($200,000), every licensed broker, when obtaining or renewing any broker license within four years thereafter, shall pay, in addition to the license fee, a fee of seven dollars ($7), and every licensed salesperson, when obtaining or renewing such license within four years thereafter, shall pay, in addition to the license fee, a fee of four dollars ($4). The fees from both broker and salesperson licensees shall be paid into the State Treasury and credited to the Recovery Account.

10470.1. (a) In addition to the amount paid into the Recovery Account as set forth in Section 10450.6, the Real Estate Commissioner may authorize the transfer from the Real Estate Fund to the Recovery Account of any amounts as are deemed necessary.

(b) If the balance remaining in the Recovery Account contains more than four hundred thousand dollars ($400,000), the commissioner may authorize the transfer of all or part of the surplus amount into the Real Estate Fund.

(c) The commissioner may authorize the return to the Recovery Account of all or any amount previously transferred to the Real Estate Fund under this section.

10471. (a) When an aggrieved person obtains a final judgment in a court of competent jurisdiction against a defendant based upon the defendant's fraud, misrepresentation, deceit, or conversion of trust funds arising directly out of any transaction in which the defendant, while licensed under this part, performed acts for which that license was required, the aggrieved person may, upon the judgment becoming final, file an application with the Department of Real Estate for payment from the Recovery Account, within the limitations specified in Section 10474, of the amount unpaid on the judgment which represents an actual and direct loss to the claimant in the transaction.

(b) The application shall be delivered in person or by certified mail to an office of the department and a copy served on the judgment debtor in accordance with Section 10471.1 not later than one year after the judgment has become final.

(c) The application shall be made on a form prescribed by the department, verified by the claimant, and shall include the following:

(1) The name and address of the claimant.

(2) If the claimant is represented by an attorney, the name, business address, and telephone number of the attorney.

(3) The identification of the judgment, the amount of the claim and an explanation of its computation.

(4) A detailed narrative statement of the facts in explanation of the allegations of the complaint upon which the underlying judgment is based.

(5) The name and address of the judgment debtor or, if not known, the names and addresses of persons who may know the judgment debtor's present whereabouts.

(6) The following representations and information from the claimant:

(A) That he or she is not a spouse of the judgment debtor nor a personal representative of the spouse.

(B) That he or she has complied with all of the requirements of this chapter.

(C) That the judgment underlying the claim meets the requirements of subdivision (a).

(D) A description of searches and inquiries conducted by or on behalf of the claimant with respect to the judgment debtor's assets liable to be sold or applied to satisfaction of the judgment, an itemized valuation of the assets discovered, and the results of actions by the claimant to have the assets applied to satisfaction of the judgment.

(E) That he or she has diligently pursued collection efforts against other judgment debtors and all other persons liable to the claimant in the transaction that is the basis for the underlying judgment.

(F) That the application was mailed or delivered to the department no later than one year after the underlying judgment became final.

(d) The application form shall include detailed instructions with respect to documentary evidence, pleadings, court rulings, and the products of discovery in the underlying litigation to be appended to the application.

10471.1. (a) Not later than 15 days after submission of the application to the department, the claimant shall serve a copy of the notice prescribed in subdivision (c) upon the judgment debtor by personal service or by registered mail, together with a copy of the application.

(b) If the judgment debtor holds a current license issued by the department, service of the notice and a copy of the application may be made by registered mail addressed to the judgment debtor at the latest business or residence address on file with the department. If the judgment debtor does not hold a current license issued by the department and personal service cannot be effected through the exercise of reasonable diligence, the claimant shall serve the judgment debtor by one publication of the notice in each of two successive weeks in a newspaper of general circulation published in the county in which the judgment debtor was last known to reside.

(c) The notice served upon the judgment debtor shall include the following statment:

"NOTICE: Based upon a judgment entered against you in favor of _____, application for
(name of claimant)
payment from the Recovery Account of the Real Estate Fund is being made to the Department of Real Estate.

"If payment is made from the Recovery Account, all licenses and license rights that you have under the Real Estate Law will be automatically suspended on the date of payment and cannot be reinstated until the Recovery Account has been reimbursed for the amount paid plus interest at the prevailing rate.

"If you wish to contest payment by the Real Estate Commissioner, you must file a written response to the application addressed to the Department of Real Estate at _____ within 30 days after mailing, delivery, or publication of this notice and send a copy of that response to the claimant. If you fail to do so, you will have waived your right to present your objections to payment."

(d) If a judgment debtor fails to file a written response to the application with the department within 30 days after personal service, mailing, or final publication of the notice, the judgment debtor shall not thereafter be entitled to notice of any action taken or proposed to be taken by the commissioner with respect to the claim.

10471.2. (a) If the commissioner determines that the application as submitted by the claimant fails to comply substantially with the requirements of Section 10471 or with the requirements of a regulation adopted by the commissioner under authority of Section 10080, the commissioner shall, within 15 days after receipt of the application, mail an itemized list of deficiencies to the claimant.

(b) The time within which the commissioner is required to act under Section 10471.3 shall be measured from the date of receipt by the department of an application that is substantially complete. In the event of an irreconcilable dispute between the claimant and the commissioner on the question of whether the application is substantially complete, the claimant may immediately file the claim with the court pursuant to Section 10472.

10471.3. (a) The commissioner shall render a final written decision on the application within 90 days after a completed application has been received unless the claimant agrees in writing to extend the time within which the commissioner may render a decision. If the commissioner fails to render a written decision in response to the claim within 90 days after its receipt or within the extended period agreed to by the claimant, the claim shall be deemed to have been denied by the commissioner on the final day for rendering the decision.

(b) The commissioner may deny or grant the application or may enter into a compromise with the claimant to pay less in settlement than the full amount of the claim. If the claimant refuses to accept a settlement of the claim offered by the commissioner, the written decision of the commissioner shall be to deny the claim or it shall be deemed denied if a written decision is not rendered within the time specified in subdivision (a). Evidence of settlement offers and discussions between the

commissioner and the claimant shall not be competent evidence in judicial proceedings undertaken by the claimant pursuant to Section 10472.

10471.4. In its consideration and investigation of an application, the department shall have recourse to all appropriate means of investigation and discovery available to it under Article 2 (commencing with Section 11180) of Chapter 2 of Part 1 of Division 3 of Title 2 of the Government Code.

10471.5. (a) The commissioner shall give notice of a decision rendered with respect to the claim to the claimant and to a judgment debtor who has filed a timely response to the claim in accordance with Section 10471.1.

(b) If the application is denied, the notice to the claimant and judgment debtor shall include the following:

"Claimant's application has been denied. If the claimant wishes to pursue the application in court, the claimant must file the application in the court in which the underlying judgment was entered not later than six months after receipt of this notice, pursuant to Section 10472 of the Business and Professions Code."

(c) If the decision of the commissioner is to make a payment to the claimant out of the Recovery Account, the following notice shall be given to the judgment debtor along with a copy of the decision of the commissioner:

"The decision of the Real Estate Commissioner on the claim of _____ is to pay $_____ from the Recovery Account. A copy of that decision is enclosed.

"Pursuant to Section 10475 of the Business and Professions Code, all of your licenses and license rights under the Real Estate Law will be suspended effective on the date of the payment, and you will not be eligible for reinstatement of any license issued under authority of the Real Estate Law until you have reimbursed the Recovery Account for this payment plus interest at the prevailing legal rate."

"If you desire a judicial review of the suspension of your licenses and license rights, you may petition the superior court in the county in which the judgment which is the basis of this claim was rendered, for a writ of mandamus. To be timely, the petition must be filed with the court within 30 days of receipt of this notice."

10471.6. At any time prior to the rendering of a decision on a claim if the commissioner determines that the aggregate valid claims of all aggrieved persons against that licensee are likely to exceed the limits of liability in Section 10474, the commissioner shall, in lieu of further administrative proceedings, initiate a proration proceeding pursuant to Section 10474.5 in any court of competent jurisdiction in which a judgment meeting the requirements of Section 10471 has been entered against the licensee.

10472. (a) A claimant against whom the commissioner has rendered a decision denying an application pursuant to Section

10471 may, within six months after receipt of notice of the denial, file a verified application in the court in which judgment was entered in favor of the claimant, for an Order Directing Payment Out of the Recovery Account based upon the grounds set forth in the claimant's application to the commissioner.

(b) A copy of the verified application shall be served upon the commissioner and upon the judgment debtor. A certificate or affidavit of service shall be filed by the claimant with the court. Service on the commissioner may be made by registered mail addressed to the headquarters office of the department. Service upon a judgment debtor may be made in accordance with Section 10471.1. The notice served upon the judgment debtor shall read as follows:

"NOTICE: An application has been filed with the court for a payment from the Recovery Account that was previously denied by the Real Estate Commissioner.

"If the Department of Real Estate makes a payment from the Recovery Account pursuant to court order, all of your licenses and license rights under the Real Estate Law will be automatically suspended until the Recovery Account has been reimbursed for the amount paid plus interest at the prevailing rate.

"If you wish to defend in court against this claim, you must file a written response with the court within 30 days after having been served with a copy of the application. If you do not file a written response, you will have waived your right to defend against the claim."

10472.1. (a) The commissioner and the judgment debtor shall each have 30 days after being served with the application in which to file a written response. The court shall thereafter set the matter for hearing upon the petition of the claimant. The court shall grant a request of the commissioner for a continuance of as much as 30 days and may, upon a showing of good cause by any party, continue the hearing for such time as the court deems appropriate.

(b) At the hearing, the claimant shall be required to establish compliance with the requirements of Section 10471.

(c) If the judgment debtor fails to file a written response to the application, the claim may be compromised or settled by the commissioner at any time during the court proceedings and the court shall, upon joint petition of the applicant and the commissioner, issue an order directing payment out of the Recovery Account.

10473. Whenever the court proceeds upon an application under Section 10472, it shall order payment out of the Recovery Account only upon a determination that the aggrieved party has a valid cause of action within the purview of Section 10471, and has complied with Section 10472.

The commissioner may defend any such action on behalf of the Recovery Account and shall have recourse to all appropriate

means of defense and review, including examination of witnesses and the right to relitigate any issues material and relevant in the proceeding against the Recovery Account which were determined in the underlying action on which the judgment in favor of the applicant was based. If the judgment in favor of the applicant was by default, stipulation, consent, or pursuant to Section 594 of the Code of Civil Procedure, or whenever the action against the licensee was defended by a trustee in bankruptcy, the applicant shall have the burden of proving that the cause of action against the licensee was for fraud, misrepresentation, deceit, or conversion of trust funds. Otherwise, the judgment shall create a rebuttable presumption of the fraud, misrepresentation, deceit, or conversion of trust funds by the licensee, which presumption shall affect the burden of producing evidence.

The commissioner may move the court at any time to dismiss the application when it appears there are no triable issues and the petition is without merit. The motion may be supported by affidavit of any person or persons having knowledge of the facts, and may be made on the basis that the petition, and the judgment referred to therein, does not form the basis for a meritorious recovery claim within the purview of Section 10471; provided, however, the commissioner shall give written notice at least 10 days before the motion.

The commissioner may, subject to court approval, compromise a claim based upon the application of an aggrieved party. The commissioner shall not be bound by any compromise or stipulation of the judgment debtor.

10473.1. The judgment debtor may defend an action against the Recovery Account on his or her own behalf and shall have recourse to all appropriate means of defense and review, including examination of witnesses. All matters, including, but not limited to, the issues of fraud, misrepresentation, deceit, or conversion of trust funds, finally adjudicated in the underlying action are conclusive as to the judgment debtor and the applicant in the proceeding against the Recovery Account.

10474. Notwithstanding any other provision of this chapter and regardless of the number of persons aggrieved or parcels of real estate involved in a transaction or the number of judgments against a licensee, the liability of the Recovery Account shall not exceed the following amounts:

(a) For causes of action which occurred on or after July 1, 1964, and prior to January 1, 1975, ten thousand dollars ($10,000) for any one transaction and twenty thousand dollars ($20,000) for any one licensee.

(b) For causes of action which occurred on or after January 1, 1975, and prior to January 1, 1980, ten thousand dollars ($10,000) for any one transaction and forty thousand dollars ($40,000) for any one licensee.

(c) For causes of action which occurred on or after January 1,

1980, twenty thousand dollars ($20,000) for any one transaction and one hundred thousand dollars ($100,000) for any one licensee.

10474.5. If the amount of liability of the Recovery Account as provided for in Section 10474 is insufficient to pay in full the valid claims of all aggrieved persons by whom claims have been filed against any one licensee, the amount shall be distributed among them in the ratio that their respective claims bear to the aggregate of the valid claims, or in any other manner as the court deems equitable. Distribution of any moneys shall be among the persons entitled to share therein, without regard to the order of priority in which their respective judgments may have been obtained or their claims have been filed. Upon petition of the commissioner, the court may require all claimants and prospective claimants against one licensee to be joined in one action, to the end that the respective rights of all claimants to the Recovery Account may be equitably adjudicated and settled.

10475. Should the commissioner pay from the Recovery Account any amount in settlement of a claim or toward satisfaction of a judgment against a licensed broker or salesperson, the license of the broker or salesperson shall be automatically suspended upon the date of payment from the Recovery Account. No broker or salesperson shall be granted reinstatement until he or she has repaid in full, plus interest at the prevailing legal rate applicable to a judgment rendered in any court of this state, the amount paid from the Recovery Account on his or her account. A discharge in bankruptcy shall not relieve a person from the penalties and disabilities provided in this chapter.

10476. If, at any time, the money deposited in the Recovery Account is insufficient to satisfy any duly authorized claim or portion thereof, the commissioner shall, when sufficient money has been deposited in the Recovery Account, satisfy the unpaid claims or portions thereof, in the order that the claims or portions thereof were originally filed, plus accumulated interest at the rate of 4 percent a year.

10477. Any sums received by the commissioner pursuant to any provisions of this chapter shall be deposited in the State Treasury and credited to the Recovery Account.

10478. It shall be unlawful for any person or the agent of any person to file with the commissioner any notice, statement, or other document required under the provisions of this chapter which is false or untrue or contains any willful, material misstatement of fact. Such conduct shall constitute a public offense punishable by imprisonment in the county jail for a period of not more than one year or a fine of not more than one thousand dollars ($1,000), or both.

10479. When, the commissioner has paid from the Recovery Account any sum to the judgment creditor, the commissioner shall be subrogated to all of the rights of the judgment creditor and the judgment creditor shall assign all of his or her right, title, and

interest in the judgment to the commissioner and any amount and interest so recovered by the commissioner on the judgment shall be deposited to the Recovery Account.

10480. The failure of an aggrieved person to comply with all of the provisions of this chapter shall constitute a waiver of any rights hereunder.

10481. Nothing in this chapter limits the authority of the commissioner to take disciplinary action against any licensee for a violation of the Real Estate Law, or of Chapter 1 (commencing with Section 11000) of Part 2, or of the rules and regulations of the commissioner; nor shall the repayment in full of all obligations to the Recovery Account by any licensee nullify or modify the effect of any other disciplinary proceeding brought pursuant to the Real Estate Law.

SEC. 4. To the extent that there are inconsistencies between this act and provisions of Article 3 (commencing with Section 10470) of Chapter 6 of Part 1 of Division 4 in effect immediately prior to the operative date of this act, the latter provisions shall apply in the case of an application properly filed with the court in accordance with Section 10471 prior to the operative date of this act.

SEC. 5. This act shall become operative on January 1, 1987.

CHAPTER 691

An act to amend Section 17300 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 17, 1985. Filed with Secretary of State September 18, 1985.]

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

SECTION 1. Section 17300 of the Vehicle Code is amended to read:

17300. (a) Any person who willfully or negligently damages any street or highway, or its appurtenances, including, but not limited to, guard rails, signs, traffic signals, and similar facilities, is liable for the reasonable cost of the repair or replacement thereof.

(b) Any person who willfully or negligently causes or permits the contents of any vehicle to be deposited upon any street or highway, or its appurtenances, is liable for the reasonable costs of removing those contents from the street or highway or its appurtenances.

(c) The liability stated in this section also applies to an owner of a vehicle operated with the owner's permission, as provided in Article 2 (commencing with Section 17150), and includes liability for the reasonable cost of necessary safety precautions, such as warning traffic, the removal of debris resulting from accidents, the removal

of any materials, or providing detours.

(d) The Department of Transportation and local authorities, with respect to highways under their respective jurisdictions, may present claims for liability under this section, bring actions for recovery thereon, and settle and compromise in their discretion claims arising under this section.

(e) If the Department of Transportation or a local authority provides services on a highway outside its jurisdiction, at the request of the department or the local authority which has jurisdiction over that highway, the department or the local authority may present a claim for liability for rendering this service under this section, bring actions for recovery thereon, and, in its discretion, settle and compromise the claim.

CHAPTER 692

An act to amend Sections 21190 and 21191 of the Public Resources Code, relating to the California Environmental Protection Program.

[Approved by Governor September 17, 1985 Filed with Secretary of State September 18, 1985]

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

SECTION 1. Section 21190 of the Public Resources Code is amended to read:

21190. There is in this state the California Environmental Protection Program, which shall be concerned with the preservation and protection of California's environment. In this connection, the Legislature hereby finds and declares that, since the inception of the program pursuant to the Marks-Badham Environmental Protection and Research Act, the Department of Motor Vehicles has, in the course of issuing environmental license plates, consistently informed potential purchasers of those plates, by means of a detailed brochure, of the manner in which the program functions, the particular purposes for which revenues from the issuance of those plates can lawfully be expended, and examples of particular projects and programs that have been financed by those revenues. Therefore, because of this representation by the Department of Motor Vehicles, purchasers come to expect and rely that the moneys paid by them will be expended only for those particular purposes, which results in an obligation on the part of the state to expend the revenues only for those particular purposes.

Accordingly, all funds expended pursuant to this division shall be used only to support identifiable projects and programs of state agencies, cities, counties, districts, the University of California, and private research organizations which have a clearly defined benefit to the people of the State of California and which have one or more

of the following purposes:

(a) The control and abatement of air pollution, including all phases of research into the sources, dynamics, and effects of environmental pollutants.

(b) The acquisition, preservation, restoration, or any combination thereof, of natural areas or ecological reserves.

(c) Environmental education, including formal school programs and informal public education programs. The State Department of Education may administer moneys appropriated for these programs, but shall distribute not less than 90 percent of moneys appropriated for the purposes of this subdivision to fund environmental education programs of school districts, other local schools, state agencies other than the State Department of Education, and community organizations. Not more than 10 percent of the moneys appropriated for environmental education may be used for State Department of Education programs or defraying administrative costs.

(d) Protection of nongame species and threatened and endangered plants and animals.

(e) Protection, enhancement, and restoration of fish and wildlife habitat and related water quality, including review of the potential impact of development activities and land use changes on that habitat.

(f) The purchase, on an opportunity basis, of real property consisting of sensitive natural areas for the state park system and for local and regional parks.

(g) Reduction or minimization of the effects of soil erosion and the discharge of sediment into the waters of the Lake Tahoe region, including the restoration of disturbed wetlands and stream environment zones, through projects by the California Tahoe Conservancy and grants to local public agencies, state agencies, federal agencies, and nonprofit organizations.

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, and consists of the moneys deposited in the fund pursuant to any provision of law.

(b) The Controller shall transfer from the California Environmental License Plate Fund to the Motor Vehicle Account in the State Transportation Fund amounts equal to the actual costs incurred by the Department of Motor Vehicles in performing its duties pursuant to Sections 5004, 5004.5, and 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) The Director of Motor Vehicles shall certify the amounts of the administrative costs of the Department of Motor Vehicles in subdivisions (b) and (c) to the Controller.

(e) The balance of the moneys in the California Environmental License Plate Fund shall be available for expenditure for the exclusive trust purposes specified in Section 21190, 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.

(f) 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. This act shall become operative on July 1, 1986.

CHAPTER 693

An act to amend Section 14184 of, and to add Sections 14105.4, 14105.41, and 14105.42 to, the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor September 17, 1985 Filed with Secretary of State September 18, 1985.]

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

SECTION 1. Section 14105.4 is added to the Welfare and Institutions Code, to read:

14105.4. (a) The department shall schedule and conduct a public regulatory hearing to consider the addition of a drug to, or the deletion of a drug from, the Medi-Cal drug formulary five working days subsequent to the Medical Therapeutic and Drug Advisory Committee meeting which shall meet at least every four months. The public hearing may consist of written testimony only, and the hearing record shall be closed at the end of the public hearing.

(b) The department shall make available 45 days prior to the public hearing the department's estimate of any anticipated costs or savings to the state from adding a drug product to, or deleting a drug product from, the Medi-Cal drug formulary.

(c) Whenever the department accepts a completed petition to add a drug product to the Medi-Cal drug formulary and it is not processed pursuant to Section 14105.9, it shall be scheduled for review at the next regularly scheduled Medical Therapeutic and

Drug Advisory Committee meeting and public regulatory hearing, unless the meeting and hearing are scheduled to occur within 120 days, in which case the drug product may be scheduled for the following hearing.

(d) The State Director of Health Services shall issue a final decision regarding the drug product and shall submit any regulation adding a drug product to, or deleting a drug product from, the Medi-Cal drug formulary to the Office of Administrative Law, along with the completed rulemaking record, within seven months after the hearing prescribed in subdivision (a). This section shall not, however, be construed in a manner which results in the disapproval or invalidation of a regulation for failure to comply with the time frames prescribed in this subdivision and subdivisions (a) and (c).

(e) The criteria used by the department in deciding whether a drug product shall be added to or deleted from the formulary shall be limited to the criteria adopted as department regulations. The criteria shall be specific and unambiguous.

(f) Departmental requests for information from persons filing drug petitions to which this section applies shall be specific and unambiguous and shall be made solely for the purpose of addressing the criteria utilized in accordance with subdivision (e).

(g) All published studies received by the department pursuant to a drug petition prior to the close of the public regulatory hearing record shall be accepted and considered by the department.

(h) Whenever the director decides to reject a petition to add a drug product to, or delete a drug product from, the formulary, the director shall notify the petitioner directly and in writing indicating the reason and specifying the criteria utilized in reaching the decision.

(i) The department shall accept a petition for a drug that has been rejected by the director upon the submission of another complete petition containing substantial new information that addresses the reason or reasons for rejection stated by the director pursuant to subdivision (h). Any petition accepted pursuant to this subdivision shall be processed in accordance with subdivision (c), or Section 14105.9, whichever is applicable.

SEC. 2. Section 14105.41 is added to the Welfare and Institutions Code, to read:

14105.41. (a) For the purpose of adding drugs to, or deleting drugs from, the Medi-Cal drug formulary as described in Section 14105.4, whether pursuant to a petition or by the department independent of a petition, all of the requirements of the Administrative Procedure Act contained in Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code shall be applicable except that the requirements of subdivision (a) of Section 11347.1 and subdivision (b) of Section 11346.7 of the Government Code shall be deemed to have been complied with if the department does all of the following:

(1) Upon receipt of a petition requesting the addition of a drug to,

or the deletion of a drug from, the Medi-Cal drug formulary, the department shall notify the petitioner directly and in writing of the receipt of the petition and shall, within 30 days, either return the petition as incomplete or schedule the petition for public hearing, unless the public hearing is not required pursuant to Section 14105.9.

(2) Notifies each petitioner directly and in writing of its decision regarding the addition of a drug product to, or deletion of a drug product from, the formulary and shall state the reason or reasons for its decision and the specific regulatory criteria that are the basis of the department's decision.

(3) Prepares and submits to the Office of Administrative Law with the adopted regulation all of the following for each drug which the department has decided to add to, or delete from, the Medi-Cal drug formulary:

(A) A brief summary of the comments submitted. For the purpose of this section, "comments" shall mean the major points raised in testimony which specifically address the regulatory criteria upon which the department is authorized, pursuant to subdivision (e) of Section 14105.4, to base a decision to add or delete a drug from the formulary.

(B) The recommendation of the Medical Therapeutic and Drug Advisory Committee.

(C) The decision of the department.

(D) A statement of the reason and the specific regulatory criteria that are the basis of the department's decision.

(b) Any additional information provided to the department during the posting of revisions to the proposed regulation shall be responded to by the department directly and in writing to the originator. That response shall notify the originator whether the additional information has resulted in a changed decision.

(c) For the purpose of review by the court, if any, and review and approval by the Office of Administrative Law of changes to the Medi-Cal drug formulary adopted by the department, each drug added to, or deleted from, the formulary shall be considered to be a separate regulation and shall be severable from all other additions or deletions of drugs contained in the rulemaking file.

(d) This section shall be applicable to any Medi-Cal drug formulary regulation package filed with the Office of Administrative Law after January 1, 1986.

SEC. 3. Section 14105.42 is added to the Welfare and Institutions Code, to read:

14105.42. The provisions of Sections 14105.4 to 14105.41, inclusive, shall not preclude the department from taking emergency regulatory action as it deems appropriate.

SEC. 4. Section 14184 of the Welfare and Institutions Code is amended to read:

14184. The committee shall:

(a) Meet at least every four months to review drugs on the Medi-Cal drug formulary and make written recommendations to the

director as to the addition of any drug to or the deletion of any drug from the formulary. The meetings shall be held pursuant to subdivision (a) of Section 14105.4.

(b) Review and report in writing to the director as to the comparative therapeutic effect of drugs in accordance with Section 14053.5.

CHAPTER 694

An act to add Section 35179.7 to, and to add and repeal Section 35179.5 of, the Education Code, relating to schools.

[Approved by Governor September 17, 1985 Filed with Secretary of State September 18, 1985]

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

SECTION 1. Section 35179.5 is added to the Education Code, to read:

35179.5. (a) The State Board of Education shall adopt rules and regulations establishing minimum qualifications for persons who are employed by school districts under subdivision (b) of Section 44919 to serve in a limited assignment supervising the athletic activities of pupils. The adopted rules and regulations shall include, but need not be limited to, minimum educational and work experience standards which will ensure that these employees are qualified to provide supervision and instruction of pupils participating in interscholastic athletic programs and activities.

(b) The governing board of each school district shall comply with the rules and regulations establishing minimum qualifications for persons employed in a limited assignment supervising the athletic activities of pupils adopted by the State Board of Education under Subdivision (a).

(c) Each school district shall annually file a certification to the State Board of Education, on forms designated by the department for that purpose, that it is in compliance with the requirements of this section.

(d) This section shall remain in effect only until January 1, 1992, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1992, deletes or extends that date.

SEC. 2. Section 35179.7 is added to the Education Code, to read:

35179.7. The State Board of Education shall adopt rules and regulations establishing standards of ethical conduct applicable to each temporary, probationary, or permanent employee of a school district providing supervision and instruction in interscholastic athletic programs and activities. These standards shall include, at a minimum, rules and regulations prohibiting these employees from exerting undue influence in a pupil's decision to enroll in an athletic

program at any public or private postsecondary educational institution, or from otherwise influencing a pupil's decision to enroll in an athletic program for his or her personal gain.

SEC. 3. Reimbursement to local agencies and school districts for costs mandated by the state pursuant to this act shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code and, if the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), shall be made from the State Mandates Claims Fund.

CHAPTER 695

An act to add Section 35251 to the Vehicle Code, relating to vehicles.

[Approved by Governor September 17, 1985. Filed with Secretary of State September 18, 1985.]

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

SECTION 1. Section 35251 is added to the Vehicle Code, to read:

35251. A boom or mast which is designed to be raised and lowered by hydraulic mechanisms and which is a constituent part of or an attachment to a vehicle or machine, shall be securely chained or otherwise restrained to ensure compliance with Section 35250 while the vehicle or machine is being transported as a load upon any highway.

SEC. 2. No reimbursement is required by this act pursuant to 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 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 696

An act to amend Sections 8411, 8412, 8413, 8414, and 8415 of, and to repeal Sections 8414.5, 8416, and 8417 of, the Fish and Game Code, relating to mackerel, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 17, 1985 Filed with Secretary of State September 18, 1985.]

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

SECTION 1. Section 8411 of the Fish and Game Code is amended to read:

8411. It is the intent of the Legislature that the Pacific mackerel resource in waters north of Punta Eugenia, Baja California, Mexico, be maintained at a total population above 20,000 tons.

"Total population" means Pacific mackerel age one and over as of July 1 of each year as determined by the department.

The department shall study the Pacific mackerel resource and fishery for biological and management purposes. On or before February 1 of each year, the department shall prepare a report on the status of the Pacific mackerel resource and fishery.

The report shall include, but shall not be limited to, an estimate of the size of the total population of Pacific mackerel for the current season and an estimate of the expected size of the total population of Pacific mackerel at the beginning of the next season.

SEC. 2. Section 8412 of the Fish and Game Code is amended to read:

8412. (a) If the department determines that the total population of Pacific mackerel is less than 20,000 tons, a moratorium shall be in effect and Pacific mackerel shall not be taken or possessed, except that loads of fish may contain 18 percent or less by number of Pacific mackerel taken incidentally to other fishing operations.

(b) If the department determines that the total population of Pacific mackerel is 20,000 tons or greater, but less than 150,000 tons, the director shall establish a season quota equal to 30 percent of the Pacific mackerel in excess of 20,000 tons.

(c) If the department determines that the total population of Pacific mackerel is 150,000 tons or greater, there shall not be a season quota limitation on the take of Pacific mackerel.

(d) Any season quota authorized under this section or Section 8414 may be taken under a revocable nontransferable permit issued by the department to boat owners or operators, under conditions prescribed by the department. A portion of a season quota may be allocated for landings from the waters of the Pacific Ocean north of Point Sal.

SEC. 3. Section 8413 of the Fish and Game Code is amended to read:

8413. The department shall keep records of the catch of Pacific mackerel, including Pacific mackerel taken and landed incidentally with other species of fish. The department shall estimate from the current trend of catches the date on which the season quota will be taken and, at least 48 hours prior thereto, shall publicly announce that date as the closing date of the season.

SEC. 4. Section 8414 of the Fish and Game Code is amended to read:

8414. During any portion of the season, the director may increase or decrease the season quota established under Section 8412.

SEC. 5. Section 8414.5 of the Fish and Game Code is repealed.

SEC. 6. Section 8415 of the Fish and Game Code is amended to read:

8415. After the season quota is taken, the director may establish a tolerance for Pacific mackerel taken mixed with other species of up to 50 percent by number in landings greater than six tons and up to 100 percent for landings of six tons or less.

SEC. 7. Section 8416 of the Fish and Game Code is repealed.

SEC. 8. Section 8417 of the Fish and Game Code is repealed.

SEC. 9. No reimbursement is required by this act pursuant to 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 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. 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 for this act to be operative for this year's season, which begins July 1, 1985, it is necessary for this act to take effect immediately.

CHAPTER 697

An act to amend Section 50738.5 of the Health and Safety Code, relating to housing.

[Approved by Governor September 17, 1985 Filed with Secretary of State September 18, 1985.]

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

SECTION 1. Section 50738.5 of the Health and Safety Code is amended to read:

50738.5. (a) The department shall establish and administer an annuity fund and may, notwithstanding any other provision of this chapter, 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 any audits necessary 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 subdivisions (b), (c), (d), and (e) of Section 50757. The regulatory agreement shall also contain restrictions on the occupancy of the dwelling units within the rental housing development necessary to meet the requirements of subdivisions (a), (b), (c), and (e) of Section 50736 and Section 50739. In addition, elderly or physically handicapped households shall be allocated not less than 20 percent, or more than 50 percent, of the assisted units provided pursuant to this section. Other handicapped households shall be eligible for assisted units pursuant to this subdivision or subdivision (a), (b), (c), or (e) of Section 50736 if they otherwise meet the requirements imposed by those provisions.

(d) The department may utilize up to 2½ percent of the moneys appropriated for purposes of this section for administrative costs incurred in administering this section.

(e) The department shall make requests for proposals available to all potential sponsors of rental housing developments to be financed by the Farmers Home Administration who request them. The department shall encourage nonprofit sponsors and public agency sponsors to submit proposals. The request for proposals shall provide information about the availability of annuity payments to ensure affordable rents in rental housing developments financed by the Farmers Home Administration, the department's criteria for making commitments of its annuity funds, and the appropriate application procedure. The applicant shall be required by the department to concurrently submit a preapplication for financing to the Farmers Home Administration. The department shall submit to the Farmers Home Administration those applications for which the department has made commitments for annuity payments under this section. This section does not prohibit a sponsor of a rental housing development from applying directly to the Farmers Home Administration for financing and for federal rental assistance payments.

(f) "Rental housing development," as used in this section, includes farm labor housing developments financed or insured by the Farmers Home Administration pursuant to Section 1484, 1485, or 1486 of Title 42 of the United States Code.

CHAPTER 698

An act relating to commercial ports.

[Approved by Governor September 17, 1985 Filed with Secretary of State September 18, 1985]

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

SECTION 1. (a) On or before April 30, 1986, the Department of Commerce and the State Lands Commission shall jointly collect reports describing the current economic state of each commercial port and plans for future development of the port. The reports are not required to contain any proprietary information, nor shall they create any obligation by any commercial port to any present or prospective user of port facilities by reason of anything contained in the reports.

(b) The Department of Commerce shall collect and compile the reports submitted to the department and the State Lands Commission pursuant to subdivision (a), and the department shall prepare and transmit to the Governor and the Legislature a summary thereof on or before June 30, 1986.

(c) As used in this section, the term "commercial port" means a port which obtains 50 percent or more of its revenue from maritime trade.

CHAPTER 699

An act to amend Sections 18975, 19202, 20756, and 24997 of, to add Sections 18203, 19215, 19216, and 19303 to, and to add Article 6.5 (commencing with Section 19310) to Chapter 5 of Part 3 of Division 9 of, the Food and Agricultural Code, relating to animals, and making an appropriation therefor.

[Approved by Governor September 17, 1985 Filed with Secretary of State September 18, 1985]

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

SECTION 1. Section 18203 is added to the Food and Agricultural Code, to read:

18203. There is in the department the Bureau of Meat and Poulty Inspection.

SEC. 2. Section 18975 of the Food and Agricultural Code is amended to read:

18975. If an action of a livestock meat inspector or department inspector in condemning any livestock or poultry product is questioned, appeal by the licensed establishment operator may be made to the immediate supervisor of the inspector and from his or her decision appeal may be made to the Chief of the Bureau of Meat and Poultry Inspection. The operator shall abide by the decision of the inspector until or unless the decision is modified by the supervisor or the chief.

SEC. 3. Section 19202 of the Food and Agricultural Code is amended to read:

19202. "Bureau" means Bureau of Meat and Poultry Inspection of the Department of Food and Agriculture.

SEC. 4. Section 19215 is added to the Food and Agricultural Code, to read:

19215. "Transporter of inedible kitchen grease" means any person who transports inedible kitchen grease to a rendering plant or a collection center.

SEC. 5. Section 19216 is added to the Food and Agricultural Code, to read:

19216. "Inedible kitchen grease" means any fat or used cooking greases and oils obtained from any source.

SEC. 6. Section 19303 is added to the Food and Agricultural Code, to read:

19303. (a) In addition to any other records required to be kept pursuant to this chapter, every licensed renderer shall record and keep for one year, in connection with the receipt of kitchen grease which is not intended for human food, all of the following information:

(1) The name, address, and registration number of every transporter of inedible kitchen grease who has delivered that material to the renderer.

(2) The total amount of inedible kitchen grease purchased in each transaction.

(3) The date of each transaction.

(b) Every transporter of inedible kitchen grease shall record and maintain for one year all of the following:

(1) The name and address of each location from which the transporter obtained the inedible kitchen grease.

(2) The quantity of material received from each location.

(3) The date on which the inedible kitchen grease was obtained from each location.

SEC. 7. Article 6.5 (commencing with Section 19310) is added to Chapter 5 of Part 3 of Division 9 of the Food and Agricultural Code, to read:

Article 6.5. Transporters of Inedible Kitchen Grease

19310. (a) It is unlawful for any person to engage in the transportation of inedible kitchen grease without being registered with the department and without being in possession of a valid registration certificate issued by the department.

(b) Each registration shall expire on December 31st each year.

19311. Any renderer who operates vehicles for the purpose of collecting inedible kitchen grease shall comply with this article.

19312. (a) Registration shall be made with the department and shall include all of the following:

(1) The applicant's name and address.

(2) A description of the operations to be performed by the applicant.

(3) The vehicles to be used in the transportation.

(4) A registration fee of one hundred dollars ($100).

(5) Any other information that may be required by the department.

(b) Any renderer who is required to register pursuant to this article is not required to pay the fee prescribed in this section.

19313. Every vehicle used in the transportation of inedible kitchen grease shall conspicuously display the name of the owner of the vehicle in letters not less than two inches high.

19314. The department may, after notice and hearing, suspend or revoke a registration certificate or a renderer's license if, at any time, it finds any of the following has occurred:

(a) The registrant or licensee has sold or offered for sale to an unlicensed person, any inedible kitchen grease.

(b) The registrant or licensee has stolen, misappropriated, contaminated, or damaged inedible kitchen grease or containers thereof.

(c) The registrant or licensee has violated any provision of this article or any regulations adopted to implement this article.

19315. In addition to the registration fee required in Section 19312, the department may charge an additional fee necessary to cover the costs of administering this article.

19316. It is the purpose of this article to prevent the sale and transfer of illegally obtained inedible kitchen grease.

SEC. 8. Section 20756 of the Food and Agricultural Code is amended to read:

20756. If the right to use a brand is suspended for failure to pay the renewal fee, it may be reinstated within one year from the date of suspension upon the payment of the biennial renewal fee of fifty dollars ($50) plus a twenty-five dollar ($25) penalty fee.

SEC. 9. Section 24997 of the Food and Agricultural Code is amended to read:

24997. If an action of an inspector in condemning any poultry meat or poultry meat product is questioned, appeal by the licensed plant operator may be made to the immediate supervisor of the inspector, and from his or her decision appeal may be made to the Chief of the Bureau of Meat and Poultry Inspection whose decision is final.

SEC. 10. No reimbursement is required by this act pursuant to 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 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 700

An act to amend Sections 1200, 1204, 1206, 1276, 1326, and 1418 of, to add Sections 1293.2, 1404.5, 1406, 1407, 1408, 1409, 1409.1, 1409.2, and 1409.3 to, to repeal Section 1402 of, and to repeal and add Section 1405 of, the Health and Safety Code, relating to health.

[Approved by Governor September 17, 1985. Filed with Secretary of State September 18, 1985]

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

SECTION 1. Section 1200 of the Health and Safety Code is amended to read:

1200. As used in this chapter, "clinic" means an organized outpatient health facility which provides direct medical, surgical, dental, optometric, or podiatric advice, services, or treatment to patients who remain less than 24 hours, and which may also provide diagnostic or therapeutic services to patients in the home as an incident to care provided at the clinic facility. Nothing in this section shall be construed to prohibit the provision of nursing services in a clinic licensed pursuant to this chapter. In no case shall a clinic be deemed to be a health facility subject to the provisions of Chapter 2 (commencing with Section 1250) of this division. A place, establishment, or institution which solely provides advice, counseling, information, or referrals on the maintenance of health or on the means and measures to prevent or avoid sickness, disease, or injury, where such advice, counseling, information, or referrals does not constitute the practice of medicine, surgery, dentistry, optometry, or podiatry, shall not be deemed a clinic for purposes of this chapter.

References in this chapter to "primary care clinics" shall mean and designate all the types of clinics specified in subdivision (a) of Section 1204, including community clinics and free clinics. References in this chapter to specialty clinics shall mean and designate all the types of clinics specified in subdivision (b) of Section 1204, including surgical clinics, chronic dialysis clinics, and rehabilitation clinics.

SEC. 3. Section 1204 of the Health and Safety Code is amended to read:

1204. Clinics eligible for licensure pursuant to this chapter are primary care clinics and specialty clinics.

(a) Only the following defined classes of primary care clinics shall be eligible for licensure:

(1) A "community clinic" means 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 the effective date of this section shall not be required to obtain tax-exempt status under either federal or state law in order to be eligible for, or as a condition of, renewal of its license. No natural person or persons shall operate a community clinic.

(2) A "free clinic" means a clinic operated by a tax-exempt, nonprofit corporation supported in whole by voluntary donations, bequests, gifts, grants, government funds or contributions, which may be in the form of money, goods, or services. In a free clinic there shall be no charges directly to the patient for services rendered or for drugs, medicines, appliances, or apparatuses furnished. 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 free clinic; provided, that the licensee of any free clinic so licensed on the effective date of this section shall not be required to obtain tax-exempt status under either federal or state law in order to be eligible for, or as a condition of, renewal of its license. No natural person or persons shall operate a free clinic.

(b) The following types of specialty clinics shall be eligible for licensure as specialty clinics pursuant to this chapter:

(1) A "surgical clinic" means a clinic which is not part of a hospital and which provides ambulatory surgical care for patients who remain less than 24 hours. A surgical clinic does not include any place or establishment owned or leased and operated as a clinic or office by one or more physicians or dentists in individual or group practice, regardless of the name used publicly to identify the place or establishment, provided, however, that physicians or dentists may, at their option, apply for licensure.

(2) A "chronic dialysis clinic" means a clinic which provides less than 24-hour care for the treatment of patients with end-stage renal disease, including renal dialysis services.

(3) A "rehabilitation clinic" means a clinic which, in addition to providing medical services directly, also provides physical rehabilitation services for patients who remain less than 24 hours. Rehabilitation clinics shall provide at least two of the following rehabilitation services: physical therapy, occupational therapy, social, speech pathology, and audiology services. A rehabilitation clinic does not include the offices of a private physician in individual or group practice.

SEC. 4. Section 1206 of the Health and Safety Code is amended to read:

1206. This chapter does not apply to the following:

(a) Except with respect to the option provided with regard to surgical clinics in paragraph (1) of subdivision (b) of Section 1204 and, further, with respect to specialty clinics specified in paragraph (2) of subdivision (b) of Section 1204, any place or establishment owned or leased and operated as a clinic or office by one or more licensed health care practitioners and used as an office for the practice of their profession, within the scope of their license, regardless of the name used publicly to identify the place or establishment.

(b) Any clinic directly conducted, maintained or operated by the United States or by any of its departments, officers, or agencies, and any primary care clinic specified in subdivision (a) of Section 1204 which is directly conducted, maintained, or operated by this state or by any of its political subdivisions or districts, or by any city. Nothing in this subdivision precludes the state department from adopting regulations which utilize clinic licensing standards as eligibility criteria for participation in programs funded wholly or partially under Title XVIII or XIX of the federal Social Security Act.

(c) Any clinic conducted, maintained, or operated by a federally recognized Indian tribe or tribal organization, as defined in Section 450 or 1601 of Title 25 of the United States Code, and which is located on land recognized as tribal land by the federal government.

(d) Clinics conducted, operated, or maintained as outpatient departments of hospitals.

(e) Any facility licensed as a health facility under Chapter 2 (commencing with Section 1250).

(f) Any freestanding clinical or pathological laboratory licensed under Chapter 3 (commencing with Section 1200) of Division 2 of the Business and Professions Code.

(g) A clinic operated by, or affiliated with, any institution of learning which teaches a recognized healing art and is approved by the state board or commission vested with responsibility for regulation of the practice of that healing art.

(h) A clinic which is operated by a primary care community or free clinic and which is operated on separate premises from the licensed clinic and is only open for limited services of no more than 20 hours a week. An intermittent clinic as described in this paragraph shall, however, meet all other requirements of law, including administrative regulations and requirements, pertaining to fire and life safety.

(i) The offices of physicians in group practice who provide a preponderance of their services to members of a comprehensive group practice prepayment health care service plan subject to Chapter 2.2 (commencing with Section 1340) of Division 2.

(j) Student health centers operated by public institutions of higher education.

(k) Nonprofit speech and hearing centers, as defined in Section 1201.5. Any nonprofit speech and hearing clinic desiring an exemption under this subdivision shall make application therefor to

the director, who shall grant the exception to any facility meeting the criteria of Section 1201.5. Notwithstanding the licensure exemption contained in this subdivision, a nonprofit speech and hearing center shall be deemed to be an organized outpatient clinic for purposes of qualifying for reimbursement as a rehabilitation center under the Medi-Cal Act, Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code.

(*l*) A clinic operated by 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, which conducts medical research and health education and provides health care to its patients through a group of 40 or more physicians and surgeons, who are independent contractors representing not less than 10 board-certified specialties, and not less than two-thirds of whom practice on a full-time basis at the clinic.

(m) Any clinic, limited to in vivo diagnostic services by magnetic resonance imaging functions or radiological services under the direct and immediate supervision of a physician and surgeon who is licensed to practice in California. This shall not be construed to permit cardiac catheterization or any treatment modality in these clinics.

(n) A clinic operated by an employer or jointly by two or more employers for their employees only, or by a group of employees, or jointly by employees and employers, without profit to the operators thereof or to any other person, for the prevention and treatment of accidental injuries to, and the care of the health of, the employees comprising the group.

SEC. 5. Section 1276 of the Health and Safety Code is amended to read:

1276. (a) The building standards published in the State Building Standards Code and the other regulations adopted by the state department shall prescribe standards of adequacy, safety, and sanitation of the physical plant, of staffing with duly qualified licensed personnel, and of services, based on the type of health facility and the needs of the persons served thereby.

(b) These regulations shall permit the use of alternate concepts, methods, procedures, techniques, equipment, personnel qualifications, or conducting of pilot projects as long as statutory requirements are met and the use has the prior written approval of the department. The approval of the department shall provide for the terms and conditions under which the exception is granted. A written request plus supporting evidence shall be submitted by the applicant or licensee to the department regarding the exception.

SEC. 6. Section 1293.2 is added to the Health and Safety Code, to read:

1293.2. It is a misdemeanor for any person to do any of the following:

(a) Willfully prevent, interfere with, or attempt to impede in any

way the work of any duly authorized representative of the state department in the lawful enforcement of this chapter.

(b) Willfully prevent or attempt to prevent the representative from examining any relevant books or records in the conduct of his or her official duties under this chapter.

(c) Willfully prevent or interfere with the representative in the preserving of evidence of any violation of this chapter or of the rules and regulations adopted under this chapter.

(d) For purposes of this section, "willfully" means the person doing an act or omitting to do an act, intends the act or omission and knows the relevant circumstances connected therewith.

SEC. 7. Section 1326 of the Health and Safety Code is amended to read:

1326. As used in this article, "long-term health care facility" means any skilled nursing facility, intermediate care facility, intermediate care facility/developmentally disabled, or intermediate care facility/developmentally disabled habilitative licensed pursuant to this chapter.

SEC. 8. Section 1402 of the Health and Safety Code is repealed.

SEC. 10. Section 1404.5 is added to the Health and Safety Code, to read:

1404.5. A license application shall be submitted to the department whenever any of the following circumstances occur:

(a) Change of ownership of the referral agency.

(b) Change of name of the referral agency.

(c) Change of location of the referral agency.

SEC. 11. Section 1405 of the Health and Safety Code is repealed.

SEC. 12. Section 1405 is added to the Health and Safety Code, to read:

1405. Any person, partnership, firm, corporation or association desiring to obtain a license shall file with the department an application on forms furnished by the department. The application shall contain all of the following:

(a) Name of applicant, and if an individual, whether the applicant has attained the age of 18 years.

(b) Name of referral agency.

(c) The location of the referral agency.

(d) The business or occupation engaged in by each applicant, and by each partner, officer and director, for at least two years immediately preceding the filing of the application. In addition, each such person shall submit a statement setting forth whether he or she has previously engaged in the operation of a referral agency, whether he or she has been involved in, or the subject of, a refusal or revocation of a referral agency license, and whether he or she has been convicted of a crime other than a minor traffic offense.

(e) If the applicant is a corporation, the name and principal business address of each officer and director of the corporation; and for nonpublic corporations, the name and business address of each stockholder owning 10 percent or more of the stock and the name

and business address of any corporation member who has responsibility in the operation of the facility.

(f) If the applicant is a partnership, the name and principal business address of each partner.

(g) Evidence of the right to occupy the premises where the referral agency is to be located.

(h) A copy of the partnership agreement of the Articles of Incorporation, if applicable.

(i) A copy of the current organization chart.

(j) A schedule of fees to be charged and collected by the referral agency, and a statement of the method by which each fee is to be computed or determined.

(k) A declaration that the licensee will not have any financial interest in any health facility doing business with the referral agency.

(*l*) Evidence satisfactory to the department that the applicant demonstrates reputable and responsible character and the capability to comply with this chapter.

SEC. 13. Section 1406 is added to the Health and Safety Code, to read:

1406. This chapter shall not apply to any local public agency performing referral services without cost to recipients of public social services when otherwise authorized by law.

SEC. 14. Section 1407 is added to the Health and Safety Code, to read:

1407. (a) Any licensee desiring to voluntarily surrender his or her license for cancellation or temporary suspension shall notify the department in writing as soon as possible and, in all cases, at least 30 days prior to the effective date of cancellation or temporary suspension of the license.

(b) Any license placed in temporary suspension pursuant to this section may be reinstated by the department within 12 months of the date of the voluntary suspension on receipt of an application and evidence showing compliance with licensing requirements.

SEC. 15. Section 1408 is added to the Health and Safety Code, to read:

1408. (a) Upon verification of compliance with this chapter and with the approval of the department, the department shall issue the license to the applicant.

(b) If the applicant is not in compliance with this chapter, the department shall deny the applicant a license. Immediately upon the denial of any license, the department shall notify the applicant in writing. Within 20 days of receipt of the department's notice, the applicant may present his or her written petition for a hearing to the department. 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.

SEC. 16. Section 1409 is added to the Health and Safety Code, to read:

1409. Separate licenses shall be required for referral agencies

which are maintained on separate, noncontiguous premises.

SEC. 17. Section 1409.1 is added to the Health and Safety Code, to read:

1409.1. The license or true copy thereof shall be conspicuously posted in a prominent location accessible to public view.

SEC. 18. Section 1409.2 is added to the Health and Safety Code, to read:

1409.2. Licenses issued pursuant to this article are not transferable.

SEC. 19. Section 1409.3 is added to the Health and Safety Code, to read:

1409.3. (a) The licensee shall notify the department within 10 days in writing when a change of stockholder owning 10 percent or more of the nonpublic corporate stock occurs. The writing shall include the name and principal mailing addresses of the new stockholder.

(b) When a change of agency manager occurs, the department shall be notified in writing within 10 days by the licensee. The notification shall include the name of the new agency manager.

(c) Each licensee shall notify the department within 10 days in writing of any change of the mailing address of the licensee. The writing shall include the new mailing address of the licensee.

(d) When a change in the principal officer of a corporate licensee, chairperson, president, or general manager, occurs the department shall be notified within 10 days in writing by the licensee. The writing shall include the name and principal business address of the officer.

SEC. 20. Section 1418 of the Health and Safety Code is amended to read:

1418. As used in this chapter:

(a) "Long-term health care facility" means any facility licensed pursuant to Chapter 2 (commencing with Section 1250) which is any of the following:

(1) Skilled nursing facility.

(2) Intermediate care facility.

(3) Intermediate care facility/developmentally disabled.

(4) Intermediate care facility/developmentally disabled habilitative.

"Long-term health care facility" does not include a general acute care hospital or an acute psychiatric hospital, except for that distinct part of the hospital which provides skilled nursing facility or intermediate care facility services.

(b) "Licensee" means the holder of a license issued under Chapter 2 (commencing with Section 1250) for a long-term health care facility.

SEC. 21. No reimbursement is required by this act pursuant to 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 incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 701

An act to amend Sections 7300, 7301, 7303, 7304, 7308, 7317 of, to add Section 7301.5 to, and to repeal Sections 7320, 7321, and 7322 of, the Labor Code, relating to elevators.

[Approved by Governor September 17, 1985 Filed with Secretary of State September 18, 1985]

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

SECTION 1. Section 7300 of the Labor Code is amended to read:

7300. As used in this chapter:

(a) "Elevator" includes any power or hand power elevator.

(b) "Permit" means a permit issued by the division to operate an elevator.

(c) "Qualified elevator service company" means an entity which has demonstrated that its service operations are consistent with good work practices and meets performance standards established by the division.

(d) "Full maintenance service contract" refers to an agreement by a qualified elevator service company and the person owning or having the custody, management, or operation of the elevator, if the agreement provides that the elevator company is responsible for effecting repairs necessary to the safe operation of the equipment and will provide service as frequently as is necessary, but no less often than monthly.

SEC. 2. Section 7301 of the Labor Code is amended to read:

7301. No elevator shall be operated in this state unless a permit for the operation thereof is issued by the division, and unless the permit remains in effect and is kept posted conspicuously in the elevator car.

SEC. 2.5. Section 7301.5 is added to the Labor Code, to read:

7301.5. The standards board shall adopt regulations pertaining to elevator emergency and signal devices, and the operation of elevators under fire and other emergency conditions.

SEC. 3. Section 7303 of the Labor Code is amended to read:

7303. Whenever any elevator is being operated without the permit herein required, and is in a condition that its use is dangerous to the life or safety of any person, the division or any person affected thereby may apply to the superior court of the county in which the elevator is located for an injunction restraining the operation of the elevator until the condition is corrected. Proof by certification of the division that a permit has not been issued, together with the affidavit of any safety inspector of the division that the operation of the elevator is dangerous to the life or safety of any person, is sufficient ground, in the discretion of the court, for the immediate granting of a temporary restraining order.

SEC. 4. Section 7304 of the Labor Code is amended to read:

7304. (a) Except as provided in subdivision (b), the division shall cause all elevators to be inspected at least once each year. If an elevator is found upon inspection to be in a safe condition for operation, a permit for operation for not longer than one year shall be issued by the division.

(b) If an elevator is subject to a full maintenance service contract, the division may, after investigation and inspection, issue a permit for operation for not longer than two years.

SEC. 5. Section 7308 of the Labor Code is amended to read:

7308. If the operation of an elevator during the making of repairs or alterations is not immediately dangerous to the safety of persons, the division may issue a temporary permit for the operation thereof for not to exceed 30 days during the making of repairs or alterations.

SEC. 6. Section 7317 of the Labor Code is amended to read:

7317. Elevators under the jurisdiction of the United States government, and elevators located in a single-unit private home or elevators arranged so use is restricted to occupants or guests of a single-unit private home are exempted from this chapter.

SEC. 7. Section 7320 of the Labor Code is repealed.

SEC. 8. Section 7321 of the Labor Code is repealed.

SEC. 9. Section 7322 of the Labor Code is repealed.

CHAPTER 702

An act to amend Sections 23301, 23332, 23340, 23342, 23350, 23352, 23355, 23369, and 23374.1 of, and to repeal and add Article 4 (commencing with Section 23200) of Chapter 2 of Division 1 of Title 3 of, the Government Code, relating to counties.

[Approved by Governor September 17, 1985 Filed with Secretary of State September 18, 1985]

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

SECTION 1. Article 4 (commencing with Section 23200) of Chapter 2 of Division 1 of Title 3 of the Government Code is repealed.

SEC. 2. Article 4 (commencing with Section 23200) is added to Chapter 2 of Division 1 of Title 3 of the Government Code, to read:

Article 4. Minor Boundary Changes

23200. The Legislature finds and declares that the existing boundaries of some counties no longer meet the needs of their residents and landowners. The Legislature further finds and declares that the statutory procedures for altering county boundaries which existed before the enactment of this article were cumbersome and discouraged county boards of supervisors from adjusting their

mutual boundaries. In enacting this article, it is the intent of the Legislature to permit county boards of supervisors to approve changes to the boundaries of their counties. This article shall be deemed a uniform procedure for county boundary change as required by Section 1 of Article XI of the California Constitution.

23201. As used in this article:

(a) "Affected county" means any county which contains or would contain territory which is the subject of a boundary change.

(b) "Affected territory" means any unincorporated area which is proposed to be transferred from one county to another.

(c) "Conducting county" means any county whose board of supervisors adopts a resolution pursuant to Section 23206.

(d) "Inhabited territory" means territory within which there reside 12 or more registered voters at the time a resolution is adopted pursuant to Section 23203 or a petition is filed pursuant to Section 23205.

(e) "Initiating county" means any county whose board of supervisors adopts a resolution pursuant to Section 23203.

23202. A boundary line between counties shall not be changed, pursuant to this article, if the change would result in any of the following:

(a) The line to be moved a distance of more than 5 miles from its original location.

(b) A reduction by more than 5 percent in the area of any affected county.

(c) A reduction by more than 5 percent of the population of any affected county, as determined by the State Department of Finance's most recent estimate of population.

23203. The board of supervisors of any affected county may propose to change the boundary line between that county and another county by adopting a resolution which shall:

(a) State that the proposal is made pursuant to this article and request that proceedings be taken.

(b) State the reasons for the proposal.

(c) Set forth a description of the proposed new boundary line.

(d) State whether or not the proposed new boundary line will be more than 5 miles from its original location.

(e) State whether or not the proposed new boundary line will reduce the area of any affected county by more than 5 percent.

(f) State whether or not the proposed new boundary line will reduce the population of any affected county by more than 5 percent.

(g) State whether or not the proposal affects inhabited territory.

(h) Set forth any proposed terms and conditions to which the proposed boundary change shall be subject, including, but not limited to, the division of any county indebtedness or property.

23204. The board of supervisors of the initiating county shall file its resolution with the board of supervisors of the other affected county.

23205. (a) A proposal to change the boundary line of two counties may be initiated by petition which shall contain all the matters required to be contained in a resolution adopted pursuant to Section 23203. The petition shall also designate a chief petitioner.

(b) A petition shall be signed by not less than 25 percent of the resident-voters within the affected territory or by not less than 25 percent of the property owners within the affected territory who also own not less than 25 percent of the assessed value of land and improvements within the affected territory.

(c) A petition may consist of a single instrument or separate counterparts. Each signer of a petition shall add the date of signing to his or her signature. A signature by a resident-voter shall be accompanied by the address of the voter. A signature by a property owner shall be accompanied by a description sufficient to identify the property owned.

(d) A petition shall be filed with the board of supervisors of any affected county. No petition shall be accepted for filing unless the signatures have been secured within 90 days of the date on which the first signature was affixed.

(e) Within 30 days of the receipt of a petition, the clerk of the board of supervisors shall determine whether the petition is signed by the required number of signatures. If the petition does not contain the required number of signatures, the clerk of the board of supervisors shall return the petition to the chief petitioner. If the petition contains the required number of signatures, the board of supervisors shall conduct proceedings pursuant to this article.

23206. Within 30 days of receiving a resolution adopted pursuant to Section 23203 or of determining that a petition filed pursuant to Section 23205 has been signed by the required number of signatures, the board of supervisors shall adopt a resolution which shall:

(a) Set a time, date, and place of hearing on the proposal which shall be not less than 30 days nor more than 60 days from the date of adoption of the resolution setting the hearing.

(b) State that any person may appear and be heard at the hearing. Any person desiring to protest against the proposal may file a written protest with the board of supervisors. Any written protest by a resident-voter shall contain the address of the voter. Any written protest by a property owner shall contain a description sufficient to identify the property owned.

23207. The board of supervisors of the conducting county shall give notice of the hearing by each of the following:

(a) Notice shall be published pursuant to Section 6061 in one or more newspapers of general circulation within the affected territory and within each affected county. Publication shall commence at least 15 days before the date set for the hearing.

(b) Notice shall be mailed to the board of supervisors of the other affected county, to each special district and school district which includes the affected territory within its boundaries, to the local agency formation commission of each affected county, and to each

person who has filed a written request for special notice.

23208. The hearing on the proposed boundary change shall be held by the board of supervisors of the conducting county on the date and at the time specified in the resolution adopted pursuant to Section 23206. The board of supervisors of the conducting county may hold the hearing jointly with the board of supervisors of the other affected county. At the hearing, the board of supervisors shall hear testimony from interested persons and receive any oral or written protests. Any person who filed a written protest may withdraw it at any time before the conclusion of the hearing. The hearing may be continued from time to time, not to exceed 45 days from the date specified in the resolution.

23209. At the conclusion of the hearing, the board of supervisors of the conducting county shall adopt a resolution abandoning the proposed boundary change if:

(a) In the case of inhabited territory, more than 50 percent of the resident-voters in the affected territory have filed and not withdrawn written protests before the conclusion of the hearing.

(b) In the case of uninhabited territory, more than 50 percent of the property owners who own more than 50 percent of the value of the land and improvements in the affected territory have filed and not withdrawn written protests before the conclusion of the hearing.

(c) In the case of either inhabited or uninhabited territory, the board of supervisors of either affected county has filed and not withdrawn a written protest before the conclusion of the hearing.

23210. (a) Not later than 30 days after the conclusion of the hearing, if a proposed boundary change has not been abandoned pursuant to Section 23209, the board of supervisors of each affected county shall adopt substantially similar ordinances approving the proposed boundary change.

(b) The ordinances shall declare that the proposal meets each of the conditions of Section 23202. The ordinances shall specify any terms and conditions to which the boundary change is subject, including, but not limited to, a division of any county debt or property. In addition, the ordinances shall state the effective date of the boundary change. The ordinances shall be adopted by majority vote of each board of supervisors.

(c) If, in the case of inhabited territory, more than 25 percent, but not more than 50 percent, of the resident-voters in the affected territory have filed and have not withdrawn written protests before the conclusion of the hearing, the board of supervisors of each affected county shall provide that their ordinances are subject to confirmation by the voters in the affected territory. The election shall be conducted in accordance with the procedures of the Elections Code relating to county referendum elections regarding the qualifications of voters, the manner of voting, the form of the ballot, the duties of precinct and election officers, the canvassing of returns, and all other particulars.

(d) After the canvass of the returns of any election on the

proposed boundary change conducted pursuant to subdivision (c), the board of supervisors of the conducting county shall declare by resolution the total number of votes cast in the election and the number of votes cast for and against the proposed boundary change. If a majority of the votes were cast against the proposed boundary change, then the ordinances adopted pursuant to subdivision (a) shall not take effect. If a majority of the votes were cast in favor of the proposed boundary change, then the ordinances shall take effect, as provided.

23211. Each county shall continue to provide services to the territory within its own boundaries until the effective date of the boundary change as specified in the ordinances adopted pursuant to Section 23210.

23212. When a county boundary is changed pursuant to this article, the boards of supervisors of the affected counties shall file before the following January 1, with the State Board of Equalization and with the assessors of the affected counties, a statement setting forth the legal description of the boundary, as changed, together with a map or plat indicating the boundary. The change of the boundary shall not be effective for purposes of assessment or taxation unless the statement, together with the map or plat is filed with the assessors and the State Board of Equalization on or before January 1 of the year in which the assessments or taxes are to be levied.

23213. All taxes levied before the effective date of the boundary change shall be collected by the officers of and belong to the county in which the affected territory was situated before the boundary change, unless the ordinances adopted pursuant to Section 23210 provide otherwise.

23214. After the effective date of the boundary change, the officers of the affected counties shall complete all proceedings necessary for the assessment or collection of state and local taxes for the current year with respect to the affected territory. Subject to Section 23213, all actions taken by the officers of the affected county before the effective date of the boundary change shall be deemed performed by the officers of the county in which the affected territory is situated after the effective date of the boundary change, for the benefit of that county.

23215. The officers of an affected county shall immediately execute and deliver to the board of supervisors of the other affected county copies of all assessments or other proceedings relative to the assessment and collection of the current state and local taxes in the affected territory. The copies shall be filed with the respective officers of the affected counties who would have their custody if the proceedings had been originally had in that county and shall be deemed originals. All proceedings recited in the copies shall be deemed original proceedings in the other affected county and shall have the same effect as if the proceedings had been had at the proper time and in the proper manner by the respective officials of that county.

23216. The county superintendent of schools of an affected county shall furnish the superintendent of the other affected county with a certified copy of the last school census of the school districts in the affected territory. A county superintendent of schools shall transfer to the superintendent of the other affected county any money that is or may be due to the school districts in the affected territory.

23217. The auditor of an affected county shall transfer to the auditor of the other affected county any money that is or may be due to the other affected county from road districts in the affected territory. The money shall be properly credited in each county.

23218. No school district and no special district, including a special district which is governed by a board of supervisors or whose governing body is the same as the board of supervisors, shall have its territory divided or have its organization changed in any other way as the result of a county boundary change except by proceedings taken pursuant to law subsequent to the boundary change.

23219. If the affected counties are located in different district court of appeals districts, the district court of appeals district which includes the affected territory shall retain jurisdiction in all cases pending in a session of that court.

23220. On and after the effective date of the boundary change, the superior court and the municipal or justice courts in each affected county shall retain jurisdiction in all cases pending in a session of those courts.

SEC. 3. Section 23301 of the Government Code is amended to read:

23301. As used in this chapter:

(a) "Affected county" means each county from which territory is proposed to be transferred to create a new county.

(b) "Approved county" means the territory to be included in a new county after the registered voters in the affected county or counties have approved the creation of such a new county at a primary election, pursuant to Article 4 (commencing with Section 23350), but before an election is held for purposes of determining the location of the county seat and the selection of county officers for such new county, pursuant to Article 4.5 (commencing with Section 23374.1).

(c) "Clerk" means the clerk of a county board of supervisors. Where the office of clerk of the board is separate from the office of registrar of voters, "clerk" means the registrar of voters with respect to all duties pertaining to the conduct of elections and the certification of petitions and clerk of the board with respect to all other duties specified in this chapter.

(d) "Commission" means the County Formation Review Commission.

(e) "Indebtedness" means the net obligations of a county arising from contract or through the operation of law, other than short-term operational expenses, but including and not limited to obligations

arising under general obligation bonds, leases, joint powers agreements, and similar obligations or contracts entered into by the county prior to the date on which a petition is filed. Net obligation shall be deemed to mean the gross obligation outstanding after deduction of offsetting revenues, other than tax revenues.

(f) "Principal county" means the county from which it is proposed that territory with the greatest proportion of assessed value, as shown on the last equalized assessment roll, relative to the total amount of taxable property within the boundaries of a proposed county, is to be transferred to create, in part, that proposed county.

(g) "Contiguous" means territory which adjoins the boundary line of the proposed county.

SEC. 4. Section 23332 of the Government Code is amended to read:

23332. The commission shall determine all of the following:

(a) A fair, just, and equitable distribution, as between each affected county and the proposed county, of the indebtedness of each affected county.

(b) The fiscal impact of the proposed county creation on each affected county.

(c) The economic viability of the proposed county.

(d) The final boundaries of the proposed county, pursuant to Sections 23337, 23337.5, and 23338.

(e) A procedure for the orderly and timely transition of service functions and responsibilities from the affected county or counties to the proposed county.

(f) The division of the proposed county into five supervisorial districts. The boundaries of the districts shall be established in a manner which results in a population in each district which is as equal as possible to the population in each of the other districts within the county.

(g) The division of the proposed county into a convenient and necessary number of judicial, road, and school districts, the territory of which shall be defined. To the extent possible, existing judicial, road, and school districts located within the territory of the proposed county shall be maintained.

(h) Which county offices shall be filled by election at the subsequent election of officials for an approved county conducted pursuant to Article 4.5 (commencing with Section 23374.1), and which of the offices shall be filled by appointments made by the board of supervisors of the approved county. At a minimum, the county offices to be filled by election shall be those which by law, are required to be filled by election.

(i) That the boundaries of the proposed county do not create a territory completely surrounded by any affected county.

(j) The location of the county seat of the proposed county.

(k) The appropriations limit for the proposed county in accordance with Section 4 of Article XIII B of the California Constitution.

The commission shall not be required to make any other determinations.

SEC. 5. Section 23340 of the Government Code is amended to read:

23340. All officers and employees of any state agency, board, or commission and any affected county shall cooperate with, perform any functions required by, and produce any books, records or other documents requested by the commission and necessary for the performance of the commission's functions.

SEC. 6. Section 23342 of the Government Code is amended to read:

23342. The determinations of the commission shall become the terms and conditions for creation of the proposed county. Further, the commission may impose additional terms and conditions as it deems necessary to ensure an efficient and effective transition. All terms and conditions shall be final and binding in each affected county and the proposed county should the proposed county be legally established as provided in this chapter.

SEC. 7. Section 23350 of the Government Code is amended to read:

23350. Upon receiving the commission's determinations, the board of supervisors of each affected county shall order and give proclamation and notice of an election to be held in each affected county on the same specified day which shall be the next statewide primary or general election date not less than 74 days after receipt of the commission's determinations, for the purpose of determining whether the proposed county shall be created. However, the election may be consolidated with the next statewide primary or general election.

SEC. 8. Section 23352 of the Government Code is amended to read:

23352. If the election for the purpose of determining whether the proposed county shall be created results in the county being created, an election for purposes of determining the location of the county seat and the selection of county officers shall be held in the approved county at the next statewide primary or general election date, as provided in Article 4.5 (commencing with Section 23374.1).

SEC. 9. Section 23355 of the Government Code is amended to read:

23355. Ballots at the election shall contain the statement:

"Shall the new County of (insert the name of the proposed county) be formed?"

Opposite the question, and to its right, the words "Yes" and "No" shall be printed on separate lines, with voting squares. If a voter stamps a cross (+) in the voting square after the printed word "Yes," his or her vote shall be counted in favor of the adoption. If he or she stamps a cross (+) in the voting square after the printed word "No," his or her vote shall be counted against the adoption.

SEC. 10. Section 23369 of the Government Code is amended to

read:

23369. If upon a canvass of the total votes cast in all the affected counties at the election, it appears that within each affected county more than 50 percent of the total number of all votes cast in the affected county, and more than 50 percent of the total number of all votes cast in the proposed county, are in favor of creation of the proposed county, the board of supervisors of the principal county, by resolution, shall:

(a) Declare the results of the election and that the proposed county shall not be deemed created until the election of its officers at the next statewide primary or general election, as provided in Article 4.5 (commencing with Section 23374.1). At the time that the officers of the county are elected and qualified, the proposed county is deemed created, and it shall be responsible for and discharge all the duties, powers, and functions of a county as required by law, except as provided in this chapter.

(b) State the effective date or dates upon which the various service responsibilities and functions for the proposed county shall be transferred from each affected county to the proposed county. The date or dates shall be established in accordance with the terms and conditions established by the commission and in a manner to provide for the orderly and expeditious transition of responsibilities and functions, but shall in no event exceed two fiscal years from the date on which the proposed county shall be deemed legally created as provided in subdivision (a).

SEC. 11. Section 23374.1 of the Government Code is amended to read:

23374.1. If the election for the purpose of determining whether the proposed county shall be created results in the county's creation being approved, an election for purposes of determining the location of the county seat and the selection of county officers shall be held in the approved county at the next statewide primary or general election date. The board of supervisors of each affected county shall order and give proclamation and notice of the election. The election may be consolidated with the statewide primary or general election.

SEC. 12. Reimbursement to local agencies and school districts for costs mandated by the state pursuant to this act shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code and, if the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), shall be made from the State Mandates Claims Fund.

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.

CHAPTER 703

An act to amend Section 9889.30 of the Business and Professions Code, to amend and renumber Sections 44050 and 44051 of, and to add Sections 44050, 44050.5, 44051, 44051.5, 44052, 44053, 44054, 44055, and 44058 to, the Health and Safety Code, and to amend Section 4 of Chapter 815 of the Statutes of 1982, relating to motor vehicles.

[Approved by Governor September 17, 1985. Filed with Secretary of State September 18, 1985]

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

SECTION 1. Section 9889.30 of the Business and Professions Code is amended to read:

9889.30. The Legislature hereby intends to create a program to be known as the Better Auto Repair Program to assist California motor vehicle owners in selecting a competent automotive repair facility, through a system that is simple, accurate, and regularly updated.

The Legislature recognizes the great dilemma faced by California motorists, in a state that has the most mechanically mobile population in the history of mankind, yet one in which widespread dissatisfaction exists over repair facilities available to maintain and repair motor vehicles.

The Legislature, in establishing this program, also recognizes dilemmas faced by the automotive repair industry, with the increasing complexity and diversity of the modern automobile, the wide variety of expertise exercised by the 33,000 automotive repair facilities in the state, and the difficulties faced by any industry effort to establish and maintain industry-wide standards, particularly when faced with a shrinking labor pool of journeymen and veteran mechanics. It recognizes the desire of the overwhelming majority of repair shops to provide honest, competent repair, and the social and economic necessity for such service. The Legislature believes that this voluntary program will meet the needs of both segments.

The program shall be set up on a pilot study basis and shall terminate on December 31, 1987. The study area shall include the portions of Sacramento, Placer, Yolo, San Joaquin, Yuba, and Sutter Counties as the Bureau of Automotive Repair may designate, with an emphasis to be placed on the more heavily populated areas.

SEC. 1.5. Section 44050 of the Health and Safety Code is amended and renumbered to read:

44056. (a) Except as otherwise provided in Sections 44051 and 44051.5, any person who violates any provision of this chapter, or any order, rule, or regulation of the department adopted pursuant to this chapter, is liable for a civil penalty not to exceed five hundred dollars ($500) for each day in which each violation occurs. Any action to recover civil penalties shall be brought by the Attorney General in

the name of the state on behalf of the department, or may be brought by any district attorney, city attorney, or attorney for a district.

(b) The penalties specified in subdivision (a) do not apply to an owner or operator of a motor vehicle, except an owner or operator who does any of the following:

(1) Obtains, or who attempts to obtain, a certificate of compliance or noncompliance without complying with the requirements of Section 44015.

(2) Registers a motor vehicle at an address other than the owner's or operator's residence address for the purpose of avoiding the requirements of this chapter.

SEC. 2. Section 44051 of the Health and Safety Code is amended and renumbered to read:

44057. A continuing violation of any provision of this chapter, or any order, rule, or regulation of the department adopted pursuant to this chapter, may be enjoined by the superior court of the county in which the violation is occurring. The action shall be brought by the attorney general in the name of the state on behalf of the department, or may be brought by any district attorney, city attorney, or attorney for a district. An action brought under this section shall conform to the requirements of Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, except that it shall not be necessary to show lack of an adequate remedy at law or to show irreparable damage or loss.

In addition, if it is shown that the respondent continues, or threatens to continue, to violate any provision of this chapter, or any order, rule, or regulation of the department adopted pursuant to this chapter, it shall be sufficient proof to warrant the immediate granting of a temporary restraining order.

SEC. 3. Section 44050 is added to the Health and Safety Code, to read:

44050. If, upon investigation, the department has probable cause to believe that a licensed test station or a licensed repair station has violated this chapter, or any regulation adopted pursuant to this chapter, the department may issue a citation to the licensee. The citation shall specify the nature of the violation and may specify a civil penalty assessed by the department pursuant to Section 44051 or 44051.5.

The citation shall be served pursuant to subdivision (c) of Section 11505 of the Government Code.

SEC. 4. Section 44050.5 is added to the Health and Safety Code, to read:

44050.5. In assessing a civil penalty pursuant to Section 44050 against a person who has not previously been cited for a violation of the same statute or regulation, the department shall fix the penalty at an amount within the minimum and maximum penalties specified in Section 44051 or 44051.5, as the case may be, for each violation.

SEC. 5. Section 44051 is added to the Health and Safety Code, to read:

44051. The civil penalty for a violation of the specified provisions of this chapter is as follows:

Section	Short Description of Violation	Civil Penalty Minimum	Civil Penalty Maximum
44012(a)	No emission control system inspection	$250	$1,500
44012(b)	No emissions test	250	1,500
44014(a)	Unlicensed test station or mechanic	250	1,500
44015(a,b,c)	Failure to issue certificate signed by licensed inspector	150	1,000
44017	Cost limitation requirement	150	1,000
44031.5(a)	Test/repair by unlicensed station or nonqualified mechanic	250	1,500
44033(a)	Test/repair station requirement	100	500
44033(b)	Test on condition of mandatory repair waiver	250	1,500
44033(c)	Signed repair waiver requirement	250	1,500
44033(d)	Test/repair charges separate	100	500
44036(b)	Test/repair station certified equipment requirement	150	1,500

SEC. 6. Section 44051.5 is added to the Health and Safety Code, to read:

44051.5. The civil penalty for a violation of the specified sections of Title 16 of the California Administrative Code is as follows:

Section	Short Description of Violation	Civil Penalty Minimum	Civil Penalty Maximum
3340.15(a-j)	Test/repair station general requirements	$100	$ 500
3340.16	Test station equipment and testing procedures	150	1,000
3340.16.5	Test/repair station equipment and testing proceudres	150	1,000
3340.17	Test/repair station equipment maintenance and calibration	150	1,000
3340.20	Acknowledgment and waiver requirement	250	1,500
3340.22	Test/repair station sign requirement	100	500

3340.23	Test/repair cease operations	250	1,500
3340.25	Licensed inspector requirement	250	1,500
3340.30	Qualified mechanic's training and certification requirement	100	500
3340.35	Certification of compliance and noncompliance requirement	250	1,500
3340.37	NOx device/sticker requirement	100	500
3340.40	Low emissions service and adjustment requirement	150	1,000
3340.41	Inspection/test/repair requirement	150	1,000
3340.42	Inspection standards, test procedures, and exhaust emissions requirement	100	500
3340.45	Cost limitation requirement	100	500

SEC. 7. Section 44052 is added to the Health and Safety Code, to read:

44052. (a) When a citation lists more than one violation, the amount of the civil penalty assessed shall be stated separately for each statute and regulation violated.

(b) When a citation lists more than one violation arising from a single motor vehicle inspection or repair, the total penalties assessed shall not exceed two thousand five hundred dollars ($2,500).

SEC. 8. Section 44053 is added to the Health and Safety Code, to read:

44053. (a) Any person issued a citation pursuant to Section 44050 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 shall be submitted in writing within 30 days of service of the citation, and shall be delivered to the office of the Bureau of Automotive Repair of the department in Sacramento. Hearings and related procedures under this section shall be conducted in the same manner as proceedings for adjudication of an accusation under that Chapter 5, except as otherwise specified in this article.

(b) If, within 30 days from service of the citation, the licensee fails to request a hearing, the citation shall be deemed the final order of the department.

SEC. 9. Section 44054 is added to the Health and Safety Code, to read:

44054. In assessing a civil penalty pursuant to a citation issued pursuant to Section 44050, the Director of Consumer Affairs shall give due consideration to the gravity of the violation, including, but not limited to, a consideration of whether any of the following apply to the licensee:

(a) A failure to perform work for which money was received.

(b) The making of any false or misleading statement in order to induce a person to authorize repair work or pay money.

(c) The commission of numerous or repeated violations.

(d) A failure to make restitution to customers affected by the licensee's violation.

SEC. 10. Section 44055 is added to the Health and Safety Code, to read:

44055. (a) Any failure to comply with the final order of the department for payment of a civil penalty, or to pay the amount specified in any settlement executed by the licensee and the Director of Consumer Affairs, shall result in denial of any application for the renewal of the license. The department shall not renew a license until all civil penalties which have become final, or amounts agreed to in a settlement, have been paid by the licensee.

(b) The department may deny an application for the renewal of a test station or repair station license if the applicant, or any partner, officer, or director thereof, has failed to pay any civil penalty in accordance with this article.

SEC. 11. Section 44058 is added to the Health and Safety Code, to read:

44058. Any person who violates this chapter, or any order, rule, or regulation of the department adopted pursuant to this chapter, is guilty of a misdemeanor and 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, in lieu of the imposition of the civil penalties.

SEC. 12. Section 4 of Chapter 815 of the Statutes of 1982 is amended to read:

Sec. 4. The Office of the Legislative Analyst shall prepare a report for the Legislature on Article 10 (commencing with Section 9889.30) of Chapter 20.3 of Division 20.3 of the Business and Professions Code by February 15, 1987, analyzing (1) the program costs, (2) the program effectiveness, and (3) the applicability of the program for statewide use, or for limited use in portions of the state.

SEC. 13. The advisory board created by Section 9882.6 of the Business and Professions Code in the Bureau of Automotive Repair in the Department of Consumer Affairs shall hold at least one public hearing for purposes of a study and an evaluation of the issuance of citations and the assessment of civil penalties authorized by this act for violations by licensed test stations and licensed repair stations, and shall report to the Chief of the Bureau of Automotive Repair on the manner in which this authority has been implemented and its recommendations thereon on or before January 1, 1989.

SEC. 14. No reimbursement is required by this act pursuant to 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 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 704

An act to amend Section 9314 of the Public Resources Code, relating to resource conservation districts.

[Approved by Governor September 17, 1985 Filed with Secretary of State September 18, 1985]

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

SECTION 1. Section 9314 of the Public Resources Code is amended to read:

9314. (a) The term of office of the five directors, except those first elected, shall be four years. The expiration of the term of any director does not constitute a vacancy, and the director shall hold office until his or her successor has qualified.

(b) As an alternative to the election of directors, the board of directors may request the board of supervisors of the principal county to appoint any directors, except those first elected. The board of directors shall file its request with the board of supervisors no later than the final filing date for candidates pursuant to Section 23512 or 23521.5 of the Elections Code. The board of supervisors shall, by ordinance, appoint directors from those candidates who have filed and not withdrawn nominating petitions pursuant to Section 23512 of 23521.5 of the Elections Code.

Appointment of directors by the board of supervisors does not affect the status of a district as an independent special district.

If the board of supervisors does not conduct interviews of potential candidates or make an appointment within 60 days after the expiration of the term, the board of directors may make the appointment.

CHAPTER 705

An act to add Section 13823.15 to the Penal Code, relating to domestic violence, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 17, 1985 Filed with Secretary of State September 18, 1985.]

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

SECTION 1. Section 13823.15 is added to the Penal Code, to read:

13823.15. (a) The Legislature finds the problem of domestic violence to be of serious and increasing magnitude. The Legislature also finds that existing domestic violence services are underfunded and that some areas of the state are unserved.

(b) There is in the Office of Criminal Justice Planning, a Comprehensive Statewide Domestic Violence Program. The goals of the program shall be to provide local assistance to existing service providers, to maintain and expand services based on a demonstrated need, and to establish a targeted or directed program for the development and establishment of domestic violence services in currently unserved and underserved areas. The program shall provide financial and technical assistance to local domestic violence centers in implementing all of the following services:

(1) Twenty-four-hour crisis hotlines.
(2) Counseling.
(3) Business centers.
(4) Emergency "safe" homes or shelters for victims and families.
(5) Emergency food and clothing.
(6) Emergency response to calls from law enforcement.
(7) Hospital emergency room protocol and assistance.
(8) Emergency transportation.
(9) Supportive peer counseling.
(10) Counseling for children.
(11) Court and social service advocacy.
(12) Legal assistance with temporary restraining orders, devices, and custody disputes.
(13) Community resource and referral.
(14) Household establishment assistance.

Priority for financial and technical assistance shall be given to emergency shelter programs and "safe" homes for victims of domestic violence and their children.

(c) The Executive Director of the Office of Criminal Justice Planning shall allocate funds to local centers meeting the criteria for funding that shall be established by the office in consultation with practitioners and experts in the field of domestic violence. All organizations funded pursuant to this section shall utilize volunteers to the greatest extent possible.

The centers may seek, receive, and make use of any funds which may be available from all public and private sources to augment any state funds received pursuant to this section.

Centers receiving funding shall provide cash or an in-kind match of at least 10 percent of the funds received pursuant to this section.

(d) The Office of Criminal Justice Planning shall conduct

statewide training workshops on domestic violence for local centers, law enforcement, and other service providers designed to enhance service programs. The workshops shall be planned in conjunction with practitioners and experts in the field of domestic violence prevention.

(e) The Office of Criminal Justice Planning shall develop and disseminate throughout the state information and materials concerning domestic violence. The office shall also establish a resource center for the collection, retention, and distribution of educational materials related to domestic violence. The office may utilize and contract with existing domestic violence technical assistance centers in this state in complying with the requirements of this subdivision.

(f) The Office of Criminal Justice Planning may hire the support staff and utilize all resources necessary to carry out the purposes of this section. The office shall not utilize more than 10 percent of any funds appropriated for the purpose of the program established by this section for the administration of that program.

SEC. 2. Commencing on January 1, 1987 and annually thereafter, the Executive Director of the Office of Criminal Justice Planning shall submit a report to the Legislature describing the operation and accomplishments of the programs authorized by Sections 13823.4 and 13823.15 of the Penal 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 this act may achieve maximum implementation, it is necessary that it be operative at the earliest time possible.

CHAPTER 706

An act to add Section 22790.3 to the Government Code, relating to state employees' health benefits.

[Approved by Governor September 17, 1985 Filed with Secretary of State September 18, 1985]

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

SECTION 1. Section 22790.3 is added to the Government Code, to read:

22790.3. The board shall not withdraw approval of, or fail to renew a contract with, a health maintenance organization during the first five years following the approval of the board of an expansion of the plan, on the basis of its failure to comply with or meet any minimum enrollment standards established by the board, if the health maintenance organization has (a) expanded its original

service area to include any new area or areas encompassing at least 10 percent of the number of eligible enrollees or annuitants that were in its original service area, and (b) complies with or meets any minimum enrollment standards in its original service area or in any portion of its total service area which is equal to or exceeds its original service area in numbers of eligible enrollees or annuitants.

Any plan which fails to meet the minimum enrollment standards established by the board at the expiration of the expansion period specified in this section, may reduce its service area to include only those areas which meet minimum enrollment standards.

For the purpose of determining the number of years in which a contracting health maintenance organization shall comply with or meet any minimum enrollment standards, the base date shall be the first day of the first open enrollment period following expansion approval.

This section shall remain in effect only until January 1, 1990, and shall have no force or effect on or after such date, unless a later enacted statute, which is chaptered before January 1, 1990, deletes or extends such date.

CHAPTER 707

An act to add Section 1596.857 to the Health and Safety Code, relating to child day care facilities, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 17, 1985 Filed with Secretary of State September 18, 1985]

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

SECTION 1. Section 1596.857 is added to the Health and Safety Code, to read:

1596.857. (a) Upon presentation of identification, the responsible parent or guardian of a child receiving services in a child day care facility has the right to enter and inspect the facility without advance notice during the normal operating hours of the facility or at any time that the child is receiving services in the facility. Parents or guardians when inspecting shall be respectful of the children's routines and programmed activities. The facility shall inform parents and guardians of children receiving services in the facility of the right of the parents and guardians to inspect the facility pursuant to this section.

(b) No child day care facility shall discriminate or retaliate against any child or parent or guardian on the basis or for the reason that the parent or guardian has exercised his or her right under this section to inspect the facility or has lodged a complaint with the department against a facility.

(c) If any child day care facility denies a parent or legal guardian the right to enter and inspect a facility or retaliates, the department shall issue the facility a warning citation. For any subsequent violation of this right, the department may impose a civil penalty upon the facility of fifty dollars ($50) per violation. The department may take any appropriate action, including license revocation.

(d) Each child day care facility shall permanently post in a facility location accessible to parents and guardians written notice of the right to make an inspection pursuant to this section and the prohibition against retaliation and the right to file a complaint.

(e) Notwithstanding any other provision of this section, the person present who is in charge of a child day care facility may deny access to an adult whose behavior presents a risk to children present in the facility and may deny access to noncustodial parents or guardians if so requested by the responsible parent or legal guardian.

SEC. 2. No reimbursement is required by this act pursuant to 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 incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

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

In order to protect the health and well-being of children in child day care facilities, it is necessary that this act take effect immediately.

CHAPTER 708

An act to add Sections 20361.2 and 20361.3 to the Government Code, relating to the Public Employees' Retirement System.

[Approved by Governor September 17, 1985 Filed with Secretary of State September 18, 1985]

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

SECTION 1. Section 20361.2 is added to the Government Code, to read:

20361.2. "Elective officer," as used in Section 20361, includes any person holding the office of member of a county board of education which is fiscally independent pursuant to Article 3 (commencing with Section 1080) of Chapter 1 of Part 2 of Division 1 of the Education Code.

Any statutory reference to Section 20361 shall be deemed to also be a reference to this section.

This section shall not apply to any county board of education which

is fiscally independent pursuant to Article 3 (commencing with Section 1080) of Chapter 1 of Part 2 of Division 1 of the Education Code unless and until the county board of education formally elects by a majority vote to be subject to this section and so notifies the Board of Administration.

SEC. 2. Section 20361.3 is added to the Government Code, to read:

20361.3. "Elective officer," as used in Section 20361, includes any person holding the office of assistant city attorney.

Any statutory reference to Section 20361 shall be deemed to also be a reference to this section.

This section shall not apply to any city nor to an assistant city attorney employed by the city unless and until the city elects to be subject to the provisions of this section by amendment to its contract made in the manner prescribed for the approval of contracts.

CHAPTER 709

An act to amend and repeal Section 1141.30 of, and to add and repeal Section 1280.1 to, the Code of Civil Procedure, relating to arbitrators.

[Approved by Governor September 17, 1985 Filed with Secretary of State September 18, 1985]

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

SECTION 1. Section 1280.1 is added to the Code of Civil Procedure, to read:

1280.1. An arbitrator has the immunity of a judicial officer from civil liability when acting in the capacity of arbitrator under any statute or contract.

This section shall remain in effect only until January 1, 1991, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1991, deletes or extends that date.

SEC. 2. Section 1141.30 of the Code of Civil Procedure is amended to read:

1141.30. The provisions of this chapter shall not be construed in derogation of the provisions of Title 9 (commencing with Section 1280) of Part 3, and, to that extent, the provisions of this chapter and that title, other than the provisions of Section 1280.1, are mutually exclusive and independent of each other.

This section shall remain in effect only until January 1, 1991, and as of that date is repealed unless a later enacted statute which is enacted on or before January 1, 1991, deletes or extends that date. If that date is not deleted or extended, then, on and after January 1, 1991, pursuant to Section 9611 of the Government Code, Section 1141.30, as added by Section 2 of Chapter 743 of the Statutes of 1978,

shall have the same force and effect as if this temporary provision had not been enacted.

CHAPTER 710

An act to amend Sections 615, 21100, 24605, and 27907 of, and to add Section 25253.1 to, the Vehicle Code, relating to tow cars.

[Approved by Governor September 17, 1985. Filed with Secretary of State September 18, 1985.]

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

SECTION 1. Section 615 of the Vehicle Code is amended to read:

615. (a) A "tow car" is a motor vehicle which has been altered or designed and equipped for, and exclusively used in the business of, towing vehicles by means of a crane, hoist, tow bar, tow line, or dolly or is otherwise exclusively used to render assistance to other vehicles. "Tow car" does not include an automobile dismantlers' tow vehicle.

(b) Persons licensed as a repossession agency pursuant to Chapter 11 (commencing with Section 7500) of Division 3 of the Business and Professions Code may utilize a tow car when repossessing vehicles.

(c) "Automobile dismantlers' tow vehicle" means a tow vehicle which is registered by an automobile dismantler licensed pursuant to Chapter 3 (commencing with Section 11500) of Division 5 and which is used exclusively to tow vehicles owned by that automobile dismantler in the course of the automobile dismantling business.

SEC. 2. Section 21100 of the Vehicle Code is amended to read:

21100. Local authorities may adopt rules and regulations by ordinance or resolution regarding the following matters:

(a) Regulating or prohibiting processions or assemblages on the highways.

(b) Licensing and regulating the operation of vehicles for hire and drivers of passenger vehicles for hire.

(c) Regulating traffic by means of traffic officers.

(d) Regulating traffic by means of official traffic control devices meeting the requirements of Section 21400.

(e) Regulating traffic by means of any person given temporary or permanent appointment for such duty by the local authority whenever official traffic control devices are disabled or otherwise inoperable, at the scenes of accidents or disasters, or at such locations as may require traffic direction for orderly traffic flow.

No person shall, however, be appointed pursuant to this subdivision unless and until the local authority has submitted to the commissioner or to the chief law enforcement officer exercising jurisdiction in the enforcement of traffic laws within the area in which such person is to perform such duty, for review, a proposed

program of instruction for the training of a person for such duty, and unless and until the commissioner or such other chief law enforcement officer approves the proposed program. The commissioner or such other chief law enforcement officer shall approve such a proposed program if he reasonably determines that the program will provide sufficient training for persons assigned to perform the duty described in this subdivision.

(f) Regulating traffic at the site of road or street construction or maintenance by persons authorized for such duty by the local authority.

(g) Licensing and regulating the operation of tow car service or tow car drivers whose principal place of business or employment is within the jurisdiction of the local authority, excepting the operation and operators of any auto dismantlers' tow vehicle licensed under Section 11505 or any tow car operated by a repossessing agency licensed under Chapter 11 (commencing with Section 7500) of Division 3 of the Business and Professions Code and its registered employees. Nothing in this subdivision shall limit the authority of a city or city and county pursuant to Section 12111.

(h) Operation of bicycles, and, as specified in Section 21114.5, electric carts by physically disabled persons, or persons 50 years of age or older, on the public sidewalks.

(i) Providing for the appointment of nonstudent school crossing guards for the protection of persons who are crossing a street or highway in the vicinity of a school or while returning thereafter to a place of safety.

(j) Regulating the methods of deposit of garbage and refuse in streets and highways for collection by the local authority or by any person authorized by the local authority.

(k) Regulating cruising. The ordinance or resolution adopted pursuant to this subdivision shall regulate cruising, which shall be defined as the repetitive driving of a motor vehicle past a traffic control point in traffic which is congested at or near the traffic control point, as determined by the ranking peace officer on duty within the affected area, within a specified time period and after the vehicle operator has been given an adequate written notice that further driving past the control point will be a violation of the ordinance or resolution. No person is in violation of an ordinance or resolution adopted pursuant to this subdivision unless (1) that person has been given the written notice on a previous driving trip past the control point and then again passes the control point in that same time interval and (2) the beginning and end of the portion of the street subject to cruising controls are clearly identified by signs that briefly and clearly state the appropriate provisions of this subdivision and the local ordinance or resolution on cruising.

(*l*) Regulating or authorizing the removal by peace officers of vehicles unlawfully parked in a fire lane, as described in Section 22500.1, on private property. Any removal pursuant to this subdivision shall be consistent to the extent possible with the

procedures for removal and storage set forth in Chapter 10 (commencing with Section 22650).

SEC. 3. Section 24605 of the Vehicle Code is amended to read:

24605. (a) A tow car or an automobile dismantler's tow vehicle used to tow a vehicle shall be equipped with and carry a taillamp, a stoplamp, turn signal lamps, and a portable electrical extension cord for use in displaying the lamps on the rear of a towed vehicle.

(b) Whenever a tow car or an automobile dismantler's tow vehicle is towing a vehicle and a stoplamp and turn signal lamps cannot be lighted and displayed on the rear of the towed vehicle, the operator of the tow car or the automobile dismantler's tow vehicle shall, by means of an extension cord, display to the rear a stoplamp and turn signal lamps mounted on the towed vehicle, except as provided in subdivision (c). During darkness, if a taillamp on the towed vehicle cannot be lighted, the operator of the tow car or the automobile dismantler's tow vehicle shall, by means of an extension cord, display to the rear a taillamp mounted on the towed vehicle. No other lighting equipment need be displayed on the towed vehicle.

(c) Whenever any motor vehicle is towing another motor vehicle, stoplamps and turn signal lamps are not required on the towed motor vehicle, but only if a stoplamp and a turn signal lamp on each side of the rear of the towing vehicle is plainly visible to the rear of the towed vehicle. This subdivision does not apply to driveaway-towaway operations.

SEC. 4. Section 25253.1 is added to the Vehicle Code, to read:

25253.1. An automobile dismantler's tow vehicle used to tow a disabled vehicle may be equipped with flashing amber warning lamps.

A flashing amber warning lamp upon an automobile dismantler's tow vehicle may be displayed to the rear when the automobile dismantler's tow vehicle is towing a vehicle and moving at a speed slower than the normal flow of traffic.

SEC. 5. Section 27907 of the Vehicle Code is amended to read:

27907. There shall be displayed in a conspicuous place on both the right and left side of a tow car or an automobile dismantler's tow vehicle used to tow vehicles a sign showing the name of the company or the owner or operator of the tow car or the automobile dismantler's tow vehicle. The sign shall also contain the business address and telephone number of the owner or driver. The letters of the sign shall be not less than 2½ inches in height and the lettering shall be in contrast to the color of the background upon which they are placed.

SEC. 6. No reimbursement is required by this act pursuant to 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 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 711

An act to add Section 35300.5 to the Education Code, relating to education.

[Approved by Governor September 17, 1985. Filed with Secretary of State September 18, 1985.]

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

SECTION 1. Section 35300.5 is added to the Education Code, to read:

35300.5. (a) The State Department of Education shall, no later than December 31, 1986, develop a career guidance model for science and technology for use in school district counseling programs, and shall make the model available to the governing boards of all school districts in this state.

(b) The model shall be designed to provide information for use in career guidance offered to pupils in grades 7 through 12, regarding the potential for employment, educational requirements, and other matters pertaining to careers in the fields of science and technology. The purposes of the model shall be to objectively acquaint pupils with the option of pursuing careers in those fields, and to advise them in a timely manner of the preparation necessary to undertaking those careers.

(c) In developing the model, the State Department of Education shall employ materials and other resources that are available from public and private organizations, to the extent appropriate for the purposes of this section.

CHAPTER 712

An act to amend Section 1090 of the Education Code, relating to school districts.

[Approved by Governor September 17, 1985. Filed with Secretary of State September 18, 1985]

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

SECTION 1. Section 1090 of the Education Code is amended to read:

1090. (a) The board of supervisors may allow, as compensation, to each member of the county board of education a sum not to exceed the following amounts:

(1) In any class one (1) county, each member of the county board of education who actually attends all meetings held may receive as compensation for his or her services a sum not to exceed six hundred

dollars ($600) per month.

(2) In any class two (2) county, each member of the county board of education who actually attends all meetings held may receive as compensation for his or her services a sum not to exceed four hundred dollars ($400) per month.

(3) In any class three (3) county, each member of the county board of education who actually attends all meetings held may receive as compensation for his or her services a sum not to exceed three hundred dollars ($300) per month.

(4) In any class four (4) county, each member of the county board of education who actually attends all meetings held may receive as compensation for his or her services a sum not to exceed two hundred dollars ($200) per month.

(5) In any class five (5), class six (6), class seven (7), or class eight (8) county, each member of the county board of education who actually attends all meetings held may receive as compensation for his or her services a sum not to exceed one hundred sixty dollars ($160) per month.

(b) Any member who does not attend all meetings held in any month may receive as compensation for his or her services an amount not greater than the maximum amount allowed by subdivision (a) divided by the number of meetings held, and multiplied by the number of meetings actually attended.

(c) The amount of compensation shall be determined by the county board of supervisors, or, in a county having a fiscally independent county board of education, by the county board of education.

(d) A member of a county board of education may be paid for any meeting for which he or she is absent if the board includes within its minutes a finding that at the time of the meeting he or she was performing services outside the meeting on behalf of the board.

(e) There may also be allowed to each member who uses a privately owned automobile in the discharge of necessary official duties as a member of the county board of education, the same amount as allowed by any county official in the performance of his or her official duties. The mileage rate allowed in this section shall be based on the total mileage claimed in a calendar month.

(f) For purposes of this section, the classification of counties shall be determined pursuant to Section 1205.

CHAPTER 713

An act to amend Section 13961.1 of, and to add Section 13960.5 to, the Government Code, relating to victims of crime, and making an appropriation therefor.

[Approved by Governor September 17, 1985. Filed with Secretary of State September 18, 1985.]

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

SECTION 1. Section 13960.5 is added to the Government Code, to read:

13960.5. (a) Notwithstanding Section 13960, "victim" shall also include nonresidents of this state who suffer pecuniary losses as a direct result of criminal acts occurring within this state.

(b) This section shall be operative only during those time periods during which the board determines that federal funds are available to the state for the compensation of victims of crime.

SEC. 2. Section 13961.1 of the Government Code is amended to read:

13961.1. (a) An emergency award shall be available for a victim of a crime if either of the following occur as a result of the crime:

(1) The victim incurs loss of income or support.

(2) The victim requires emergency medical treatment.

(b) Emergency award application forms shall be provided by the board upon request of the applicant. The board shall make available the application forms through all means at its disposal.

(c) The board may grant an emergency award based solely on the application of the victim. Disbursements of emergency awards funds shall be made within 30 business days of application. The board may refuse to grant an emergency award where it has reason to believe that the applicant will not qualify for an award for assistance under this article. The board may delegate authority to designated staff persons, who will use guidelines established by the board, to grant emergency awards. By mutual agreement between the staff of the board and the applicant or the applicant's representative, the staff of the board or the victim's representative may take additional 10-day periods to verify the emergency award claim and make payment.

(d) If the applicant does not complete the application for a grant or, if, upon final disposition of the victim's claim under this article, it is found that the victim is not eligible for assistance from the board, the victim shall reimburse the board for the emergency award pursuant to an agreed upon repayment schedule. If upon final disposition of the victim's application, the board grants assistance to the claimant, the amount of the emergency award shall be deducted from the final award of compensation granted to the victim; and, if the amount of the grant is less than the amount of the emergency award, the excess amount shall be repaid according to an agreed upon repayment schedule. Final disposition for the purposes of this section shall mean the final decision of the board with respect to the victim's application for assistance, before any appellate action is instituted. If an application for an emergency award is denied, the board shall notify the applicant in writing of the reasons for the denial.

(e) The amount of the emergency award shall be dependent upon the immediate needs of the victim, as evidenced by the victim's loss of income or support and losses incurred as a direct result of the crime before filing or reasonably anticipated during the first 90 days after the initial filing of an application. In no event shall the amount of the emergency award exceed one thousand dollars ($1,000).

(f) The emergency award application shall require only the following:

(1) The name, address, and telephone number of the victim.

(2) A brief description of the nature and circumstances of the crime, including the date and location.

(3) The date the crime was reported to a law enforcement agency and the name and address of the agency.

(4) The name, address, and telephone number of the employer or self-employing entity, the loss of income or support to date and estimate of future loss.

(5) The nature of the injury and the name, address, and telephone number of medical providers and the cost of medical care incurred to date.

(6) A statement that in the event the victim is denied assistance under this article or the final award is less than the emergency award, the applicant will be required to repay the excess amount.

(7) The applicant's signature and a statement that the information is supplied under penalty of perjury, violation of which is punishable by six months in the county jail.

(g) The board shall report to the Legislature annually on the advances which became uncollectible in prior years.

SEC. 3. The sum of thirty-two thousand dollars ($32,000) is hereby appropriated from the General Fund to the State Board of Control for the purposes of this act.

CHAPTER 714

An act to amend Section 4938 of the Business and Professions Code, relating to acupuncture.

[Approved by Governor September 17, 1985 Filed with Secretary of State September 18, 1985.]

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

SECTION 1. (a) It is the intent of the Legislature in enacting this act that on or before January 31, 1988, standardization shall be implemented within the curriculum, terminology, and certification testing applicable to acupuncturists. Responsibility for implementing the standardization shall reside solely with the Acupuncture Examining Committee, and progress reports shall be made to the Assembly Subcommittee on Health Personnel on or before January

15, 1986, and on or before January 15 of each succeeding year thereafter. A final report on standardization shall be submitted by the Acupuncture Examining Committee on or before March 15, 1989.

(b) It is also the intent of the Legislature in enacting this act that on or before June 30, 1989, the standardization of acupuncture training in this state shall assure that training programs prepare applicants for taking the certification examination and that the examinations adequately test both the acquisition of a standardized body of knowledge and a minimum level of clinical competency.

SEC. 2. Section 4938 of the Business and Professions Code is amended to read:

4938. The committee shall issue a certificate to practice acupuncture to any person who makes an application and meets the following requirements:

(a) Is at least 18 years of age.

(b) Furnishes satisfactory evidence of completion of (1) an educational and training program or (2) a tutorial program in the practice of an acupuncturist which is approved by the committee or (3) documented educational training and clinical experience which meets the standards established pursuant to Sections 4939 and 4941.

(c) Passes an examination administered by the committee which tests the applicant's ability, competency, and knowledge in the practice of an acupuncturist. The examination shall include a practical examination of the skills required to competently engage in such practice. Such examination shall be prepared and administered in accordance with regulations adopted by the committee.

(d) Is not subject to denial pursuant to Division 1.5 (commencing with Section 475).

(e) Completes a clinical internship training program approved by the committee. The clinical internship training program shall not exceed nine months in duration and shall be located in a clinic in this state, which is approved by the committee pursuant to Section 4939. The length of the clinical internship shall depend upon the grades received in the examination and the clinical training already satisfactorily completed by the individual prior to taking the examination. On and after January 1, 1987, individuals with 800 or more hours of documented clinical training shall be deemed to have met this requirement. The purpose of the clinical internship training program shall be to assure a minimum level of clinical competence.

SEC. 3. Section 4938 of the Business and Professions Code is amended to read:

4938. The committee shall issue a certificate to practice acupuncture to any person who makes an application and meets the following requirements:

(a) Is at least 18 years of age.

(b) Furnishes satisfactory evidence of completion of (1) an educational and training program or (2) a tutorial program in the practice of an acupuncturist which is approved by the committee or (3) documented educational training and clinical experience which

meets the standards established pursuant to Sections 4939 and 4941.

(c) Passes an examination administered by the committee which tests the applicant's ability, competency, and knowledge in the practice of an acupuncturist. The examination shall include a practical examination of the skills required to competently engage in such practice. Such examination shall be prepared and administered in accordance with regulations adopted by the committee.

(d) Is not subject to denial pursuant to Division 1.5 (commencing with Section 475).

(e) Completes a clinical internship training program approved by the committee. The clinical internship training program shall not exceed nine months in duration and shall be located in a clinic in this state, which is approved by the committee pursuant to Section 4939. The length of the clinical internship shall depend upon the grades received in the examination and the clinical training already satisfactorily completed by the individual prior to taking the examination. On and after January 1, 1987, individuals with 800 or more hours of documented clinical training shall be deemed to have met this requirement. The purpose of the clinical internship training program shall be to assure a minimum level of clinical competence.

Each applicant who qualifies for a certificate shall pay, as a condition precedent to its issuance and in addition to other fees required, the initial certification fee.

SEC. 4. Section 3 of this bill incorporates amendments to Section 4938 of the Business and Professions Code proposed by both this bill and AB 2442. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1986, (2) each bill amends Section 4938 of the Business and Professions Code, and (3) this bill is enacted after AB 2442, in which case Section 4938 of the Business and Professions Code, as amended by AB 2442, shall remain operative only until the operative date of this bill, at which time Section 3 of this bill shall become operative, and Section 2 of this bill shall not become operative.

CHAPTER 715

An act to amend Section 170.6 of the Code of Civil Procedure, relating to civil proceedings.

[Approved by Governor September 17, 1985 Filed with Secretary of State September 18, 1985]

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

SECTION 1. Section 170.6 of the Code of Civil Procedure is amended to read:

170.6. (1) No judge, court commissioner, or referee of any superior, municipal or justice court of the State of California shall try

any civil or criminal action or special proceeding of any kind or character nor hear any matter therein which involves a contested issue of law or fact when it shall be established as hereinafter provided that such judge or court commissioner is prejudiced against any party or attorney or the interest of any party or attorney appearing in such action or proceeding.

(2) Any party to or any attorney appearing in any such action or proceeding may establish such prejudice by an oral or written motion without notice supported by affidavit or declaration under penalty of perjury or an oral statement under oath that the judge, court commissioner, or referee before whom such action or proceeding is pending or to whom it is assigned is prejudiced against any such party or attorney or the interest of such party or attorney so that such party or attorney cannot or believes that he cannot have a fair and impartial trial or hearing before such judge, court commissioner, or referee. Where the judge, court commissioner, or referee assigned to or who is scheduled to try the cause or hear the matter is known at least 10 days before the date set for trial or hearing, the motion shall be made at least five days before that date. If directed to the trial of a cause where there is a master calendar, the motion shall be made to the judge supervising the master calendar not later than the time the cause is assigned for trial. If the court in which the action is pending is authorized to have no more than one judge and the motion claims that the duly elected or appointed judge of that court is prejudiced, the motion shall be made before the expiration of 30 days from the date of the first appearance in the action of the party who is making the motion or whose attorney is making the motion. In no event shall any judge, court commissioner, or referee entertain such motion if it be made after the drawing of the name of the first juror, or if there be no jury, after the making of an opening statement by counsel for plaintiff, or if there be no such statement, then after swearing in the first witness or the giving of any evidence or after trial of the cause has otherwise commenced. If the motion is directed to a hearing (other than the trial of a cause), the motion must be made not later than the commencement of the hearing. In the case of trials or hearings not herein specifically provided for, the procedure herein specified shall be followed as nearly as may be. The fact that a judge, court commissioner, or referee has presided at or acted in connection with a pretrial conference or other hearing, proceeding or motion prior to trial and not involving a determination of contested fact issues relating to the merits shall not preclude the later making of the motion provided for herein at the time and in the manner hereinbefore provided.

A motion under this paragraph may be made following reversal on appeal of a trial court's decision if the trial judge in the prior proceeding is assigned to conduct a new trial on the matter. The motion shall be made within 60 days after the party or the party's attorney has been notified of the assignment.

(3) If such motion is duly presented and such affidavit or declaration under penalty of perjury is duly filed or such oral statement under oath is duly made, thereupon and without any further act or proof, the judge supervising the master calendar, if any, shall assign some other judge, court commissioner, or referee to try the cause or hear the matter. In other cases, the trial of the cause or the hearing of the matter shall be assigned or transferred to another judge, court commissioner, or referee of the court in which the trial or matter is pending or, if there is no other judge, court commissioner, or referee of the court in which the trial or matter is pending, the Chairman of the Judicial Council shall assign some other judge, court commissioner, or referee to try such cause or hear such matter as promptly as possible. Under no circumstances shall a party or attorney be permitted to make more than one such motion in any one action or special proceeding pursuant to this section; and in actions or special proceedings where there may be more than one plaintiff or similar party or more than one defendant or similar party appearing in the action or special proceeding, only one motion for each side may be made in any one action or special proceeding.

(4) Unless required for the convenience of the court or unless good cause is shown, a continuance of the trial or hearing shall not be granted by reason of the making of a motion under this section. If a continuance is granted, the cause or matter shall be continued from day to day or for other limited periods upon the trial or other calendar and shall be reassigned or transferred for trial or hearing as promptly as possible.

(5) Any affidavit filed pursuant to this section shall be in substantially the following form:

(Here set forth court and cause)

State of California, County of	ss.	PEREMPTORY CHALLENGE

_____, being duly sworn, deposes and says: That he is a party (or attorney for a party) to the within action (or special proceeding). That _____ the judge, court commissioner, or referee before whom the trial of the (or a hearing in the) aforesaid action (or special proceeding) is pending (or to whom it is assigned), is prejudiced against the party (or his attorney) or the interest of the party (or his attorney) so that affiant cannot or believes that he cannot have a fair and impartial trial or hearing before such judge, court commissioner, or referee.

Subscribed and sworn to before me this
_____ day of _____, 19____.
(Clerk or notary public or other
officer administering oath)

(6) Any oral statement under oath or declaration under penalty of perjury made pursuant to this section shall include substantially the same contents as the affidavit above.

(7) Nothing in this section shall affect or limit the provisions of Section 170 and Title 4, Part 2, of this code and this section shall be construed as cumulative thereto.

(8) If any provision of this section or the application to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the section which can be given effect without the invalid provision or application and to this end the provisions of this section are declared to be severable.

CHAPTER 716

An act to amend Sections 1327, 1337, 1379, 3654, 4554, and 4654 of, and to add Section 1253.7 to, the Unemployment Insurance Code, relating to unemployment compensation.

[Approved by Governor September 17, 1985 Filed with Secretary of State September 18, 1985.]

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

SECTION 1. Section 1253.7 is added to the Unemployment Insurance Code, to read:

1253.7. For the purposes of subdivision (e) of Section 1253, an individual shall not be disqualified for any week solely because of either of the following:

(a) The individual is before any court of the United States or any state pursuant to a lawfully issued summons to appear for jury duty.

(b) The individual is hospitalized for treatment of an emergency or life-threatening condition.

SEC. 2. Section 1327 of the Unemployment Insurance Code is amended to read:

1327. The department shall give a notice of the filing of a new or additional claim to the employing unit by which the claimant was last employed immediately preceding the filing of the claim unless the additional claim is the result of the filing of a partial claim as defined by the department, there has not been a subsequent employing unit which is designated as the last employer, and there is no separation issue. The employing unit so notified shall submit within 10 days after the mailing of the notice any facts then known which may affect the claimant's eligibility for benefits, including, but not limited to, facts pertaining to eligibility under Section 1256. The 10-day period may be extended for good cause. If after the 10-day period the employing

unit acquires knowledge of facts which may affect the eligibility of the claimant and facts could not reasonably have been known within the period, the employing unit shall, within 10 days of acquiring the knowledge, submit the facts to the department, and the 10-day period may also be extended for good cause.

SEC. 3. Section 1337 of the Unemployment Insurance Code is amended to read:

1337. The decision of the appeals board on an appeal from the decision of an administrative law judge must be rendered within 60 days after the submission of the appeal unless the board requires the taking of further evidence. If the appeals board requires the taking of further evidence, the hearing shall be commenced within 60 days after the submission of the appeal, and the decision of the board shall be mailed within 60 days after completion of the hearing.

SEC. 4. Section 1379 of the Unemployment Insurance Code is amended to read:

1379. The director, 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 an administrative law judge.

(2) The mailing of the decision of the administrative law judge 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) Initiate proceedings for a summary judgment against the liable person. However, this subdivision applies only where the director has found, pursuant to Section 1375, that the overpayment may not be waived because it was due to fraud, misrepresentation, or willful nondisclosure on the part of the recipient. The director may, not later than one year after the overpayment became final, file with the clerk of the proper court in the county from which the overpayment of benefits was paid, a certificate containing all of the following:

(1) The amount due, including the assessment made under Section 1375.1, plus interest from the date that the initial determination of overpayment was made pursuant to Section 1376.

(2) A statement that the director has complied with all the provisions of this article prior to the filing of the certificate.

(3) A request that judgment be entered against the liable person in the amount set forth in the certificate.

The clerk immediately upon the filing of the certificate shall enter a judgment for the State of California against the liable person in the amount set forth in the certificate.

For the purposes of this subdivision only, an overpayment is final

and due and payable after any of the following:

(A) The liable person has not filed an appeal pursuant to Section 1377.

(B) The liable person has filed an appeal to the administrative law judge and a decision of an administrative law judge has become final.

(C) The liable person has filed an appeal to the appeals board and the decision of the appeals board has become final because the liable person has not sought judicial review within the six-month period provided by Section 410.

(c) Offset the amount of the overpayment received by the liable person against any amount of benefits to which he or she 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. 5. Section 3654 of the Unemployment Insurance Code is amended to read:

3654. The department shall give a notice of the filing of a primary claim or an additional claim to the employing unit by which the exhaustee was last employed immediately preceding the filing of the claim unless the additional claim is the result of the filing of a partial claim as defined by the department, there has not been a subsequent employing unit which is designated as the last employer, and there is no separation issue. The employing unit so notified shall submit within 10 days after the mailing of the notice any facts then known which may affect the exhaustee's eligibility for extended duration benefits. The 10-day period may be extended for good cause. If after the 10-day period the employing unit acquires knowledge of facts which may affect the eligibility of the exhaustee and those facts could not reasonably have been known within the period, the employing unit shall within 10 days of acquiring that knowledge submit those facts to the department, and the 10-day period may also be extended for good cause.

SEC. 6. Section 4554 of the Unemployment Insurance Code is amended to read:

4554. An individual is disqualified for federal-state extended benefits if the individual fails to actively engage in seeking work.

(a) For purposes of this section, an individual shall be treated as actively engaged in seeking work during any week if both of the following conditions are met:

(1) The individual has engaged in a systematic and sustained effort to obtain work during the week.

(2) The individual provides tangible evidence to the department that he or she has engaged in such an effort during the week.

(b) An individual shall not be disqualified under this section for any week in which the individual is in a training or retraining program under Article 1.5 (commencing with Section 1266) of Chapter 5 of Part 1.

(c) An individual shall not be disqualified under this section for any week solely because the individual is before any court of the

United States or any state pursuant to a lawfully issued summons to appear for jury duty, or the individual is hospitalized for treatment of an emergency or life-threatening condition.

SEC. 7. Section 4654 of the Unemployment Insurance Code is amended to read:

4654. The department shall give a notice of the filing of an application or an additional claim to the employing unit by which the individual was last employed immediately preceding the filing of the application or claim unless the additional claim is the result of the filing of a partial claim as defined by the department, there has not been a subsequent employing unit which is designated as the last employer, and there is no separation issue. The employing unit so notified shall submit within 10 days after the mailing of the notice any facts then known which may affect the individual's eligibility for federal-state extended benefits. The 10-day period may be extended for good cause. If after the 10-day period the employing unit acquires knowledge of facts which may affect the eligibility of the individual and those facts could not reasonably have been known within the period, the employing unit shall within 10 days of acquiring that knowledge submit those facts to the department, and the 10-day period may also be extended for good cause.

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 717

An act to amend Sections 36552 and 36559 of, and to add Section 36579 to, the Water Code, relating to California water districts, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 17, 1985 Filed with Secretary of State September 18, 1985]

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

SECTION 1. Section 36552 of the Water Code is amended to read:

36552. Between the date on which the district was formed and 90

days thereafter, and between those dates annually thereafter, the board shall file with the clerk of the board of supervisors an estimate of the sum required by the district to discharge all of its obligations:

(a) That are unpaid and matured at that date.

(b) That will mature during the next year.

(c) That it is probable will be incurred and mature during the next year.

SEC. 2. Section 36559 of the Water Code is amended to read:

36559. If a fiscal year is adopted pursuant to Section 36558, in lieu of submitting the annual estimate at the time set forth in Section 36552, the board may, by resolution, establish that the annual estimate required by Section 36552 shall be filed within 90 days from the beginning of the district's fiscal year so adopted. In that event, the annual assessment made pursuant to Section 36570 shall be made between the first day of the fiscal year and 90 days thereafter.

SEC. 3. Section 36579 is added to the Water Code, to read:

36579. If the board elects to have land within the district valued pursuant to Sections 36577 and 36578, the board may also provide for more than one schedule of valuations based upon different benefits bestowed on the land and the assignment of more than one valuation to the lands in the district and the levy of a separate assessment for the different benefits bestowed on the land. If the board elects to provide for separate valuations for separate benefits pursuant to this section, this chapter shall apply to the separate assessments. The assessment book shall include all assessments, but the assessor may, at his or her option, prepare separate assessment statements.

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

In order to permit the levy of necessary assessments during the current fiscal year in accordance with this act, it is necessary that this act take effect immediately.

CHAPTER 718

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

[Approved by Governor September 17, 1985 Filed with Secretary of State September 18, 1985]

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

SECTION 1. Notwithstanding any other provision of law, the Governing Board of the Madera Unified School District may use the buildings and facilities located on and known as the Madera Unified Training Center, located at 19500 Road 28½, Madera, California, for

classroom and other instructional purposes until one year from the date of receipt of an apportionment from the State Allocation Board for the construction of a replacement center or June 30, 1988, whichever occurs earlier. During the period of use authorized by this section, the buildings and related facilities shall not be subject to Article 3 (commencing with Section 39140) or Article 6 (commencing with Section 39210) of Chapter 2 of Part 23. The liability of the Madera Unified School District and the members of its governing board during the period of use authorized by this section shall be determined by the provisions of Division 3.6 (commencing with Section 810) of Title 1 of the Government Code.

SEC. 2. Notwithstanding any other provision of law, the Governing Board of the Allan Hancock Joint Community College District may continue to use for classroom and support services six buildings constructed between 1940 and 1945 for use as World War II barracks and two buildings constructed between 1928 and 1932 as part of the Hancock Airfield Facility, all of which presently comprise part of the campus of the Allan Hancock College. The use of the buildings herein described may be continued until June 30, 1988, or until the final completion of replacement facilities, whichever occurs first. During the period of use authorized by this section, the buildings shall not be subject to Article 3 (commencing with Section 39140) or Article 6 (commencing with Section 39210) of Chapter 2 of Part 23. The liability of the Allan Hancock Joint Community College District and the members of its governing board during the period of use authorized by this section shall be determined by the provisions of Division 3.6 (commencing with Section 810) of Title 1 of the Government Code.

SEC. 3. Notwithstanding any other provision of law, the Governing Board of the Springville Union Elementary School District may continue to use Building Number 3 for library purposes until one year from the date of receipt of an apportionment from the State Allocation Board for the construction of a replacement facility, or June 30, 1987, whichever occurs earlier. During the period of use authorized by this section, the building shall not be subject to Article 3 (commencing with Section 39140) or Article 6 (commencing with Section 39210) of Chapter 2 of Part 23. The liability of the Springville Elementary School District and the members of its governing board during the period of use authorized by this section shall be determined by the provisions of Division 3.6 (commencing with Section 810) of Title 1 of the Government Code.

SEC 4. 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 due to the unique circumstances concerning the construction of educational facilities in the Madera Unified School District, the Allan Hancock Joint Community College District, and the Springville Elementary School District, as specified in this act.

SEC. 5. This act is an urgency statute necessary for the

immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

Existing school facilities in the Madera Unified School District are insufficient to house the increased student population and it is essential that certain buildings and facilities, which are necessary for the district's educational program, remain in operation. The district's authorization to use these buildings and facilities, which do not satisfy Field Act standards, expires on June 30, 1985, and the district will not be able to fund and construct replacement facilities by that date. In addition, the authorization of the Allan Hancock Joint Community College District to use buildings that do not satisfy Field Act standards for classroom and support services expires on June 30, 1985, and the district will not be able to obtain replacement facilities by that date. In addition, existing facilities of the Springville Elementary School District are insufficient to maintain adequate library facilities, which are an essential part of the district's educational program, pending the approval of a replacement facility. Therefore, to ensure that educational services are provided in these districts without interruption, it is necessary that this act take effect immediately.

CHAPTER 719

An act relating to the Department of Consumer Affairs.

[Approved by Governor September 17, 1985 Filed with Secretary of State September 18, 1985]

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

SECTION 1. The Department of Consumer Affairs shall conduct a study of agencies within the department to determine the number of current licensees who are required to possess two or more separate licenses for the performance of similar, common, or overlapping services, and develop a plan to eliminate the need for dual licensure to perform those services. The department shall report its findings and recommendations to the Legislature no later than January 1, 1987. The constituent licensing agencies of the Department of Consumer Affairs and their respective boards, committees and commissions, shall cooperate with that department in the collection of data and all information required for the performance of this study.

CHAPTER 720

An act to amend Section 12810 of the Vehicle Code, relating to drivers' licenses.

[Approved by Governor September 17, 1985. Filed with Secretary of State September 18, 1985]

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

SECTION 1. Section 12810 of the Vehicle Code is amended to read:

12810. In determining the violation point count, the following shall apply:

(a) Any conviction of failure to stop in the event of an accident in violation of Section 20001 or Section 20002 shall be given a value of two points.

(b) Any conviction of a violation of Section 23152 or 23153 shall be given a value of two points.

(c) Any conviction of reckless driving shall be given a value of two points.

(d) Any conviction of a violation of subdivision (c) of Section 192 of the Penal Code, or of Section 2800.2, subdivision (b) of Section 21651, subdivision (b) of Section 22348, subdivision (a) of Section 23109, subdivision (c) of Section 23109, or Section 31602 of this code, shall be given a value of two points.

(e) Except as provided in subdivision (g), any other traffic conviction involving the safe operation of a motor vehicle upon the highway shall be given a value of one point.

(f) Any accident in which the operator is deemed by the department to be responsible shall be given a value of one point.

(g) A violation of paragraph (1), (2), (3), or (5) of subdivision (b) of Section 40001 shall not result in a violation point count being given to the driver if the driver is not the owner of the vehicle.

(h) A conviction for only one violation arising from one occasion of arrest or citation shall be counted in determining the violation point count for the purposes of this section.

CHAPTER 721

An act to amend Sections 5561, 5563, 5781, 5782, and 5783 of, to add Section 5785 to, to repeal Section 29062 of, and to repeal Article 3 (commencing with Section 5951) of Chapter 9 of Part 1 of Division 4 of, the Food and Agricultural Code, relating to agricultural pests.

[Approved by Governor September 17, 1985 Filed with Secretary of State September 18, 1985]

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

SECTION 1. Section 5561 of the Food and Agricultural Code is amended to read:

5561. The commissioner shall, in writing, notify the record owner or person in charge of any property having an abandoned or neglected plant or crop which the commissioner has found to be a public nuisance, of the need to remove or destroy the neglected or abandoned plant or crop. The notice required by this section shall be made by personal service or by certified mail to the address shown on the last equalized assessment roll of the county, and by posting copies of it in three conspicuous places on the property.

SEC. 1.5. Section 5563 of the Food and Agricultural Code is amended to read:

5563. The commissioner shall, in addition to the notice required by this article, advise the owner that, unless the abandoned or neglected plant or crop is removed or destroyed within 60 days, or less than 60 days if required by county ordinance, after the date the notice was served or mailed, or by such date as may be mutually agreed upon by the commissioner and the owner, the commissioner will report the existence of the nuisance to the district attorney or to the county counsel of the county with a request that an action be filed in the superior court praying for an order to remove or destroy the neglected or abandoned crop as provided for in Article 2 (commencing with Section 5571).

SEC. 1.7. Section 5781 of the Food and Agricultural Code is amended to read:

5781. If the director determines that a particular pest, either within the state or from any area which is adjacent to the state, cannot be eradicated or effectively controlled by recognized ordinary means, or that it is impracticable to eradicate or control the pest without the destruction, in whole or in part, of uninfected or uninfested host plants, the director may adopt regulations which do all of the following:

(a) Declares a host-free period or a host-free district, or both.

(b) Describes any host and the district in which the planting, growing, cultivating, or maintenance in any manner of any plant which is capable of continuing the particular pest is prohibited during a specified period of time and until the menace from it no longer exists.

SEC. 2. Section 5782 of the Food and Agricultural Code is amended to read:

5782. During the existence of a host-free period or host-free district which is established by regulations of the director, any host which is planted, growing, or being cultivated or maintained within the host-free period or district is a public nuisance and is subject to all the laws which relate to the abatement of the nuisance.

SEC. 3. Section 5783 of the Food and Agricultural Code is amended to read:

5783. It is unlawful for any person to plant, grow, cultivate, or maintain any host which is described in any regulation of the director that establishes a host-free period or host-free district, within the host-free period or host-free district after notice of the host-free period or host-free district.

SEC. 4. Section 5785 is added to the Food and Agricultural Code, to read:

5785. (a) Celery which is being produced in violation of a host-free period or district adopted pursuant to this article is a nuisance.

(b) The commissioner shall take abatement action against any celery plants or parts thereof, other than seed, including any variety or subspecies of Apium graveolens found in violation of celery host-free period or district regulations. The person producing, who has produced, or who owns the celery shall be given not more than 48 hours to commence abatement of the nuisance and shall be given not more than five days to complete abatement.

(c) If the person who is producing, has produced, or owns celery fails to commence and complete abatement within the time specified by the commissioner pursuant to subdivision (b), the commissioner shall abate the nuisance by appropriate means. The person who produced the celery plants shall pay 150 percent of all costs associated with the commissioner's abatement of the nuisance.

(d) The commissioner, with the approval of the director, may approve or deny a request for a hardship variance for celery plowdown due to adverse weather conditions.

(e) It is unlawful to harvest for sale or to sell any celery grown during a host-free period. Any person, firm, or corporation harvesting celery (Apium graveolens) in violation of a host-free period regulation shall forfeit the total sale price received for the celery to the county in which the violations occurred. An action to recover the sale price shall be brought in the name of the county on order of the board of supervisors by the county counsel of the county. This remedy shall be in addition to any other remedy provided for by law.

(f) The commissioner may request that the district attorney or county counsel assist him or her in expediting abatements and other actions necessary pursuant to this section.

SEC. 5. Article 3 (commencing with Section 5951) of Chapter 9 of Part 1 of Division 4 of the Food and Agricultural Code is repealed.

SEC. 6. Section 29062 of the Food and Agricultural Code is repealed.

SEC. 7. No reimbursement is required by this act pursuant to 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 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 722

An act to amend Section 1367.2 of the Health and Safety Code, and Sections 10123.6 and 11512.14 of the Insurance Code, relating to insurance.

[Approved by Governor September 17, 1985 Filed with Secretary of State September 18, 1985]

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

SECTION 1. Section 1367.2 of the Health and Safety Code is amended to read:

1367.2. (a) On and after January 1, 1979, every health care service plan that covers hospital, medical, or surgical expenses on a group basis shall offer coverage for the treatment of alcoholism under such terms and conditions as may be agreed upon between the group subscriber and the Health Care Service Plan. Every plan shall communicate the availability of such coverage to all group subscribers and to all prospective group subscribers with whom they are negotiating.

(b) If the group subscriber or policyholder agrees to such coverage or to coverage for treatment of chemical dependency, the treatment may take place in facilities licensed to provide alcoholism or chemical dependency services under Chapter 2 (commencing with Section 1250) of Division 2.

SEC. 2. Section 10123.6 of the Insurance Code is amended to read:

10123.6. On and after January 1, 1979, every insurer issuing group disability insurance which covers hospital, medical, or surgical expenses shall offer coverage for the treatment of alcoholism under such terms and conditions as may be agreed upon between the group policyholder and the insurer. Every insurer shall communicate the availability of such coverage to all group policyholders and to all prospective group policyholders with whom they are negotiating.

If the group subscriber or policyholder agrees to such coverage or to coverage for treatment of chemical dependency, the treatment may take place in facilities licensed to provide alcoholism or chemical dependency services under Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code.

SEC. 3. Section 11512.14 of the Insurance Code is amended to read:

11512.14. On and after January 1, 1979, every nonprofit hospital service plan that covers hospital, medical or surgical expenses on a group basis shall offer coverage for the treatment of alcoholism, under such terms and conditions as may be agreed upon between the plan and the group contract holder. Every nonprofit hospital service plan shall communicate the availability of such coverage to all group contract holders, and to all group contract holders with whom they

are negotiating.

If the group subscriber or policyholder agrees to such coverage or to coverage for treatment of chemical dependency, the treatment may take place in facilities licensed to provide alcoholism or chemical dependency services under Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code.

CHAPTER 723

An act to amend Sections 45243, 45244, 45245, 45246, 45247, 45249, 45250, 45251, 88063, 88064, 88065, 88066, 88067, 88069, 88070, and 88071 of the Education Code, relating to personnel commissions.

[Approved by Governor September 17, 1985 Filed with Secretary of State September 18, 1985]

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

SECTION 1. Section 45243 of the Education Code is amended to read:

45243. In any district which has adopted the provisions of this article there shall be appointed a personnel commission composed of either three or five members. The governing board of any school district, by majority vote, and with the agreement of the existing personnel commission of the district, if that commission is in existence, may elect to increase the membership of the personnel commission from three to five members. If two or more districts are under the jurisdiction of governing boards of identical personnel, only one commission shall be appointed. In such cases this article shall apply alike to all of the districts, and the expenses of the commission shall be paid out of the general funds of all of the districts in proportion to the benefits derived therefrom as determined by the governing board.

SEC. 2. Section 45244 of the Education Code is amended to read:

45244. To be eligible for appointment or reappointment to the commission a person shall (a) be a registered voter and resident within the territorial jurisdiction of the school district and (b) be a known adherent to the principle of the merit system. No member of the governing board of any school district or a county board of education shall be eligible for appointment, reappointment, or continuance as a member of the commission. During his or her term of service, a member of the commission shall not be an employee of the school district.

As used in this section, "known adherent to the principle of the merit system," with respect to a new appointee, shall mean a person who by the nature of his or her prior public or private service has given evidence that he or she supports the concept of employment, continuance in employment, in-service promotional opportunities,

and other related matters on the basis of merit and fitness. As used in this section, "known adherent to the principle of the merit system," with respect to a candidate for reappointment, shall mean a commissioner who has clearly demonstrated through meeting attendance and actions that he or she does, in fact, support the merit system and its operation.

SEC. 3. Section 45245 of the Education Code is amended to read:

45245. In any school district which has a three-member personnel commission, one member of the commission shall be appointed by the governing board of the district and one member, nominated by the classified employees of the district, shall be appointed by the governing board of the district. Those two members shall, in turn, appoint the third member.

In any school district which has a five-member personnel commission, two members of the commission shall be appointed by the governing board of the district and two members, nominated by the classified employees of the district, shall be appointed by the governing board of the district. Those four members of the personnel commission shall, in turn, appoint the fifth member to the commission.

As used in this section, "classified employees" shall mean an exclusive representative which represents the largest number of noncertificated employees in a unit or units within the district. If there is no such exclusive representative within the district the governing board shall, by written rule, prescribe the method by which the recommendation is to be made by its classified employees.

SEC. 4. Section 45246 of the Education Code is amended to read:

45246. (a) Within 30 days after adoption of the system the governing board shall publicly announce its intended appointee or appointees, as appropriate, and the appointee or appointees, as appropriate, nominated by its classified employees. As soon after their appointment as practicable but within 30 days, the appointed members shall appoint the third or fifth member, as appropriate. They may consider the recommendations of the governing board, the classified employees, or other concerned citizens. If these members do not make an appointment within the 30-day period, the Executive Officer of the State Personnel Board shall make the appointment.

"Adoption of the system" means, in the case of Section 45221, the day on which a successful election is certified to the governing board or, in the case of Section 45224, the day the governing board approves a motion, order, or resolution to adopt the system regardless of the date specified for operational commencement of the system.

(b) Where a system is already in existence and a vacancy will exist on December 1, by not later than September 30:

(1) The governing board shall publicly announce the name of the person it intends to appoint or reappoint, if the vacancy is its appointee.

(2) The appointee or appointees, as appropriate, of the governing

board and the appointee or appointees of the classified employees shall publicly announce the name of the person they intend to appoint, if the vacancy is their appointee.

If the governing board and the classified employees of the district are unable to agree upon a nomination by September 30, the Executive Officer of the State Personnel Board shall make the appointment within 30 days.

(c) Where a system is already in existence and a vacancy in a position nominated by the classified employees will occur, the classified employees shall submit the name of its nominee to the governing board at least 30 days prior to the date on which the vacancy will occur and the governing board shall appoint that nominee to be effective on the date on which the vacancy would occur.

(d) At a board meeting to be held after 30 and within 45 days of the dates specified in subdivision (a) and subdivision (b) (1), as the case may be, the governing board in open hearing shall provide the public and employees and employee organizations the opportunity to express their views on the qualifications of those persons recommended by the governing board for appointment.

The board at the time may make its appointment or may make a substitute appointment or recommendation without further notification or public hearing.

In the case of the nominees of the classified employees, the board shall appoint the nominee, unless the classified employees voluntarily withdraw the name of the nominee and submit the name of a new nominee. In the latter case, the board shall then appoint the new nominee.

(e) In the event a vacancy exists because of a failure of the classified employees to agree on a nominee, the board may make an emergency appointment as authorized in subdivision (b) of Section 45248. If there is no personnel director, the board may nevertheless make an emergency interim appointment under this subdivision.

SEC. 5. Section 45247 of the Education Code is amended to read:

45247. Appointees to a commission in a district which has newly adopted the system shall take office upon receipt of notification of appointment but the term of office shall run from noon of the first day of December next succeeding.

In school districts with a three-member personnel commission, the initial appointee of the governing board shall serve a three-year term, and the term of the appointee recommended by classified employees, and the third member selected by the two other members shall be for two years and one year respectively.

In school districts which have elected to establish a five-member personnel commission, one of the initial appointees of the governing board, and one of the initial appointees nominated by the classified employees shall serve three-year terms. The term of the other initial appointee of the governing board, and the other initial appointee nominated by the classified employees of the district, shall be for two

years, and the term of the appointee selected by the other members of the commission shall be for one year.

Subsequent terms shall be for three years commencing at noon the first day of December.

A three-member commission may perform any act authorized or required by law when two members have been appointed.

A five-member commission may perform any act authorized or required by law when three members have been appointed.

SEC. 6. Section 45249 of the Education Code is amended to read:

45249. In a school district which has already adopted the provisions of this article on September 17, 1965, members of the personnel commission shall continue to be appointed alternately by the Superintendent of Public Instruction and by the Executive Officer of the State Personnel Board, each of whom may consider the recommendation of the governing board and other interested parties. If the governing board and the personnel commission of a school district elect to increase the personnel commission from three to five members, the Superintendent of Public Instruction and the Executive Officer of the State Personnel Board shall make one of the additional appointments. Subsequent appointments shall be made in accordance with the provisions of this section.

SEC. 7. Section 45250 of the Education Code is amended to read:

45250. The governing board may authorize payment to members of the commission an amount not to exceed fifty dollars ($50) per meeting and not to exceed two hundred fifty dollars ($250) per month.

SEC. 8. Section 45251 of the Education Code is amended to read:

45251. In a unified school district with an average daily attendance in excess of 400,000, the governing board may authorize payment to members of the commission an amount not to exceed one hundred dollars ($100) per meeting, and not to exceed five hundred dollars ($500) per month.

SEC. 9. Section 88063 of the Education Code is amended to read:

88063. In any district which has adopted the provisions of this article there shall be appointed a personnel commission composed of either three or five members. The governing board of any community college district, by a majority vote, and with the agreement of the existing personnel commission of the district, if that commission is in existence, may elect to increase the membership of the personnel commission from three to five members. If two or more districts are under the jurisdiction of governing boards of identical personnel, only one commission shall be appointed. In such cases this article shall apply alike to all of the districts, and the expenses of the commission shall be paid out of the general funds of all of the districts in proportion to the benefits derived therefrom as determined by the governing board.

SEC. 10. Section 88064 of the Education Code is amended to read:

88064. To be eligible for appointment or reappointment to the commission a person shall (a) be a registered voter and resident

within the territorial jurisdiction of the community college district and (b) be a known adherent to the principle of the merit system. No member of the governing board of any community college district or a county board of education shall be eligible for appointment, reappointment, or continuance as a member of the commission. During his or her term of service, a member of the commission shall not be an employee of the district.

As used in this section, "known adherent to the principle of the merit system," with respect to a new appointee, shall mean a person who by the nature of his or her prior public or private service has given evidence that he or she supports the concept of employment, continuance in employment, in-service promotional opportunities, and other related matters on the basis of merit and fitness. As used in this section, "known adherent to the principle of the merit system," with respect to a candidate for reappointment, shall mean a commissioner who has clearly demonstrated through meeting attendance and actions that he or she does, in fact, support the merit system and its operation.

SEC. 11. Section 88065 of the Education Code is amended to read:

88065. One member of the commission shall be appointed by the governing board of the district and one member, nominated by the classified employees of the district, shall be appointed by the governing board of the district. Those two members shall, in turn, appoint the third member.

As used in this section, "classified employees" shall mean an exclusive representative which represents the largest number of noncertificated employees in a unit or units within the district. If there is no such exclusive representative within the district the governing board shall, by written rule, prescribe the method by which the recommendation is to be made by its classified employees.

In any community college district which has a five-member personnel commission, two members of the commission shall be appointed by the governing board of the district and two members, nominated by the classified employees of the district, shall be appointed by the governing board of the district. Those four members of the personnel commission shall, in turn, appoint the fifth member to the commission.

SEC. 12. Section 88066 of the Education Code is amended to read:

88066. (a) Within 30 days after adoption of the system the governing board shall publicly announce its intended appointee, and the appointee or appointees, as appropriate, nominated by its classified employees. As soon after their appointment as practicable but within 30 days, the appointed members shall appoint the third or fifth member, as appropriate. They may consider the recommendations of the governing board, the classified employees, or other concerned citizens. If these members do not make an appointment within the 30-day period, the Executive Officer of the State Personnel Board shall make the appointment.

"Adoption of the system" means, in the case of Section 88051, the

day on which a successful election is certified to the governing board or, in the case of Section 88054, the day the governing board approves a motion, order, or resolution to adopt the system regardless of the date specified for operational commencement of the system.

(b) Where a system is already in existence and a vacancy will exist on December 1, by not later than September 30:

(1) The governing board shall publicly announce the name of the person it intends to appoint or reappoint, if the vacancy is its appointee.

(2) The appointee or appointees, as appropriate, of the governing board and the appointee or appointees of the classified employees shall publicly announce the name of the person they intend to appoint, if the vacancy is their appointee.

If the governing board and the classified employees of the district are unable to agree upon a nomination by September 30, the Executive Officer of the State Personnel Board shall make the appointment within 30 days.

(c) Where a system is already in existence and a vacancy in a position nominated by the classified employees will occur, the classified employees shall submit the name of its nominee to the governing board at least 30 days prior to the date on which the vacancy will occur and the governing board shall appoint that nominee to be effective on the date on which the vacancy would occur.

(d) At a board meeting to be held after 30 and within 45 days of the dates specified in subdivision (a) and paragraph (1) of subdivision (b), as the case may be, the governing board in open hearing shall provide the public and employees and employee organizations the opportunity to express their views on the qualifications of those persons recommended by the governing board for appointment.

The board at the time may make its appointment or may make a substitute appointment or recommendation without further notification or public hearing.

In the case of the nominees of the classified employees, the board shall appoint the nominee, unless the classified employees voluntarily withdraw the name of the nominee and submit the name of a new nominee. In the latter case, the board shall then appoint the new nominee.

(e) In the event a vacancy exists because of a failure of the classified employees to agree on a nominee, the board may make an emergency appointment as authorized in subdivision (b) of Section 88065. If there is no personnel director, the board may nevertheless make an emergency interim appointment under this subdivision.

SEC. 13. Section 88067 of the Education Code is amended to read:

88067. Appointees to a commission in a district which has newly adopted the system shall take office upon receipt of notification of the appointment but the term of office shall run from noon of the first day of December next succeeding.

In community college districts with a three-member personnel commission, the initial appointee of the governing board shall serve a three-year term, and the term of the appointee recommended by classified employees and the third member selected by the other two members shall be for two years and one year respectively.

In community college districts which have elected to establish a five-member personnel commission, one of the initial appointees of the governing board, and one of the initial appointees nominated by the classified employees shall serve three-year terms. The term of the other initial appointee of the governing board and the other initial appointee nominated by the classified employees of the district, shall be for two years, and the term of the appointee selected by the other members of the commission shall be for one year.

Subsequent terms shall be for three years commencing at noon the first day of December.

A three-member commission may perform any act authorized or required by law when two members have been appointed.

A five-member commission may perform any act authorized or required by law when three members have been appointed.

SEC. 14. Section 88069 of the Education Code is amended to read:

88069. In a community college district which has already adopted the provisions of this article on September 17, 1965, members of the personnel commission shall continue to be appointed alternately by the Chancellor of the California Community Colleges and by the Executive Officer of the State Personnel Board, each of whom may consider the recommendation of the governing board and other interested parties.

If the governing board and the personnel commission of a community college district elect to increase the personnel commission from three to five members, the Chancellor of the California Community Colleges and the Executive Officer of the State Personnel Board shall make one of the additional appointments. Subsequent appointments shall be made in accordance with the provisions of this section.

SEC. 15. Section 88070 of the Education Code is amended to read:

88070. The governing board may authorize payment to members of the commission an amount not to exceed fifty dollars ($50) per meeting and not to exceed two hundred fifty dollars ($250) per month.

SEC. 16. Section 88071 of the Education Code is amended to read:

88071. In a community college district with an average daily attendance in excess of 40,000 and which is located in a metropolitan area with a population of more than 4,000,000, the governing board may authorize payment to members of the commission an amount not to exceed one hundred dollars ($100) per meeting, and not to exceed five hundred dollars ($500) per month.

CHAPTER 724

An act to amend Section 1424 of the Penal Code, relating to disqualification of prosecutors.

[Approved by Governor September 17, 1985 Filed with Secretary of State September 18, 1985]

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

SECTION 1. Section 1424 of the Penal Code is amended to read:

1424. Notice of any motion to disqualify a district attorney from performing any authorized duty shall be served on the district attorney and the Attorney General at least 10 days before the motion is heard. The notice of motion must set forth a statement of the facts relevant to the claimed disqualification and the legal authorities relied upon by the moving party. The Attorney General may appear at the hearing on the motion and may file with the court hearing the motion a written opinion on the disqualification issue. The motion shall not be granted unless it is shown by the evidence that a conflict of interest exists such as would render it unlikely that the defendant would receive a fair trial. An order recusing the district attorney from any proceeding may be appealed by the district attorney or the Attorney General. The order recusing the district attorney shall be stayed pending any appeal authorized by this section.

CHAPTER 725

An act to amend Section 1157 of the Evidence Code, relating to discovery.

[Approved by Governor September 17, 1985 Filed with Secretary of State September 18, 1985]

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

SECTION 1. Section 1157 of the Evidence Code is amended to read:

1157. (a) Neither the proceedings nor the records of organized committees of medical, medical-dental, podiatric, registered dietitian, psychological, 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 chiropractic review or podiatric review or registered dietitian review or veterinary review committees of local medical, dental, dental hygienist, podiatric, dietetic, veterinary, or chiropractic societies, or psychological review committees of state or local psychological associations or societies having the responsibility

of evaluation and improvement of the quality of care, shall be subject to discovery.

(b) Except as hereinafter provided, no person in attendance at a meeting of any of those committees shall be required to testify as to what transpired at that meeting.

(c) The prohibition relating to discovery or testimony does not apply to the statements made by any person in attendance at a meeting of any of those committees who is a party to an action or proceeding the subject matter of which was reviewed at that 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.

(d) The prohibitions in this section do not apply to medical, dental, dental hygienist, podiatric, dietetic, psychological, veterinary, or chiropractic society committees that exceed 10 percent of the membership of the society, nor to any of those committees if any person serves upon the committee when his or her own conduct or practice is being reviewed.

(e) The amendments made to this section by Chapter 1081 of the Statutes of 1983, or at the 1985 portion of the 1985–86 Regular Session of the Legislature, do not exclude the discovery or use of relevant evidence in a criminal action.

CHAPTER 726

An act to add Section 1596.8865 to the Health and Safety Code, relating to licensed care facilities.

[Approved by Governor September 17, 1985 Filed with Secretary of State September 18, 1985]

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

SECTION 1. Section 1596.8865 is added to the Health and Safety Code, to read:

1596.8865. (a) When a local child protective agency, as defined in Section 11165 of the Penal Code, has a reasonable suspicion, as defined in subdivision (a) of Section 11166 of the Penal Code, that the death or serious injury of a child occurred at a child day care facility because of abuse or willful neglect by the personnel of the child day care facility, the agency shall immediately notify the director.

(b) Within two working days of receipt of the evidence that the death or serious injury occurred at a child day care facility because of abuse or willful neglect by the personnel of the child day care facility, the department shall temporarily suspend the license, registration, or special permit of the facility and shall immediately

notify the licensee, registrant, or holder of the special permit of the temporary suspension and the effective date thereof and at the same time serve the provider with an accusation. The hearing shall be set and conducted in the manner provided in Section 1596.886, and the temporary suspension shall have the same effect and duration as provided in Section 1596.886.

(c) The director shall request that, and the city police, county sheriff, or other law enforcement agencies and any other county agencies investigating the death or serious injury of the child shall, expedite and coordinate evidence gathering in the case and make the evidence available, to the extent that providing the evidence will not adversely affect any criminal prosecution, as soon as possible for the purposes of the hearing on the temporary suspension.

(d) As used in this section, "serious 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.

SEC. 2. Pursuant to Section 17579 of the Government Code, the Legislature finds that there is no mandate contained in this act which will result in costs incurred by a local agency or school district for a new program or higher level of service which require reimbursement pursuant to Section 6 of Article XIII B of the California Constitution and Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

CHAPTER 727

An act to amend Section 5 of Chapter 1214 of the Statutes of 1983, and making an appropriation therefor, relating to school transportation.

[Approved by Governor September 17, 1985 Filed with Secretary of State September 18, 1985]

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

SECTION 1. Section 5 of Chapter 1214 of the Statutes of 1983 is amended to read:

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 1982–83 school year shall be deemed to be fifteen thousand seventeen dollars ($15,017), and apportionments to that school district for the 1983–84 fiscal year and each fiscal year thereafter shall be computed on that basis.

SEC. 2. Due to the unique circumstances under which the Snelling-Merced Falls Union Elementary School District temporarily

suspended its home-to-school transportation program in the 1981–82 fiscal year, which was subsequently used as the base year for state funding of home-to-school transportation, 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. 3. Regardless of when this act becomes effective, it is the intent of the Legislature to make changes in state apportionments to the Snelling-Merced Falls Union Elementary School District in the 1983–84 fiscal year. For purposes of implementing the change required by 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. 4. The sum of ten thousand four hundred fifty-four dollars ($10,454) is hereby appropriated from the General Fund to the State Department of Education, in augmentation of appropriations made for the 1983–84 and 1984–85 fiscal years, for the purpose of funding the increased home-to-school transportation entitlements authorized pursuant to Section 1 of this act.

CHAPTER 728

An act to amend Sections 1508 and 1541 of, and to add Sections 1503.5, 1569.10, and 1569.44 to, the Health and Safety Code, relating to care facilities, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 17, 1985 Filed with Secretary of State September 18, 1985]

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

SECTION 1. Section 1503.5 is added to the Health and Safety Code, to read:

1503.5. (a) A facility shall be deemed to be an "unlicensed community care facility" and "maintained and operated to provide nonmedical care" if it is unlicensed and not exempt from licensure and any one of the following conditions is satisfied:

(1) The facility is providing care or supervision, as defined by this chapter or the rules and regulations adopted pursuant to this chapter.

(2) The facility is held out as or represented as providing care or supervision, as defined by this chapter or the rules and regulations adopted pursuant to this chapter.

(3) The facility accepts or retains residents who demonstrate the need for care or supervision, as defined by this chapter or the rules

and regulations adopted pursuant to this chapter.

(4) The facility represents itself as a licensed community care facility.

(b) No unlicensed community care facility, as defined in subdivision (a), shall operate in this state.

(c) Upon discovery of an unlicensed community care facility, the department shall refer residents to the appropriate placement, adult protective services, or child protective services agency for placement in other facilities if either of the following conditions exist:

(1) There is an immediate threat to the clients' health and safety.

(2) The facility will not cooperate with the licensing agency to apply for a license, meet licensing standards, and obtain a valid license.

SEC. 2. Section 1508 of the Health and Safety Code is amended to read:

1508. No person, firm, partnership, association, or corporation within the state and no state or local public agency shall operate, establish, manage, conduct, or maintain a community care facility in this state, without first obtaining and maintaining a valid license therefor as provided in this chapter.

No person, firm, partnership, association, or corporation within the state and no state or local public agency shall provide specialized services within a community care facility in this state, without first obtaining a special permit therefor as provided in this chapter.

Except for a juvenile hall operated by a county, or a public recreation program, this section applies to community care facilities directly operated by a state or local public agency. Each community care facility operated by a state or local public agency shall comply with the standards established by the director for community care facilities.

As used in this chapter, "local public agency" means a city, county, special district, school district, community college district, chartered city, or chartered city and county.

SEC. 3. Section 1541 of the Health and Safety Code is amended to read:

1541. The director may bring an action to enjoin the violation or threatened violation of Section 1503.5 or 1508, or both, 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 section shall conform to the requirements of Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, except that the director shall not be required to allege facts necessary to show or tending to show lack of adequate remedy at law or irreparable damage or loss. Upon a finding by the director that the violations threaten the health or safety of persons in, or served by, a community care facility, the agency contracted with pursuant to Section 1511 may bring an action to enjoin the violation, threatened violation, or continued violation by any community care facility which is located in an area for which it is responsible pursuant to the

terms of the contract.

With respect to any and all actions brought pursuant to this section alleging actual violation of Section 1503.5 or 1508, or both, the court shall, if it finds the allegations to be true, issue its order enjoining the community care facility from continuance of the violation.

SEC. 4. Section 1569.10 is added to the Health and Safety Code, to read:

1569.10. No person, firm, partnership, association, or corporation within the state and no state or local public agency shall operate, establish, manage, conduct, or maintain a residential facility for the elderly in this state without first obtaining and maintaining a valid license therefor, as provided in this chapter.

SEC. 5. Section 1569.44 is added to the Health and Safety Code, to read:

1569.44. (a) A facility shall be deemed to be an "unlicensed residential facility for the elderly" and "maintained and operated to provide residential care" if it is unlicensed and not exempt from licensure, and any one of the following conditions is satisfied:

(1) The facility is providing care and supervision services, as defined by this chapter or the rules and regulations adopted pursuant to this chapter.

(2) The facility is held out as, or represented as, providing care and supervision and services, as defined by this chapter or the rules and regulations adopted pursuant to this chapter.

(3) The facility accepts or retains residents who demonstrate the need for care and supervision and services, as defined by this chapter or the rules and regulations adopted pursuant to this chapter.

(4) The facility represents itself as a licensed residential facility for the elderly.

(b) No unlicensed residential facility for the elderly, as defined in subdivision (a), shall operate in this state.

(c) Upon discovery of an unlicensed residential facility for the elderly, the department shall refer residents to the appropriate placement or adult protective services agency for placement in other facilities if either of the following conditions exist:

(1) There is an immediate threat to the clients' health and safety.

(2) The facility will not cooperate with the licensing agency to apply for a license, meet licensing standards, and obtain a valid license.

SEC. 6. Sections 4 and 5 of this act shall only become operative if Senate Bill 185 of the 1985–86 Regular Session is chaptered and becomes effective on or before January 1, 1986.

SEC. 7. No reimbursement is required by this act pursuant to 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 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:

In order to immediately enable enforcement of existing prohibitions against unlicensed conduct as a community residential care facility in this state, it is necessary that this act take immediate effect.

CHAPTER 729

An act to amend Section 40041 of the Education Code, relating to schools.

[Approved by Governor September 17, 1985 Filed with Secretary of State September 18, 1985.]

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

SECTION 1. Section 40041 of the Education Code is amended to read:

40041. (a) There is a civic center at each and every public school facility and grounds within the state where the citizens, parent-teachers' associations, camp fire girls, boy scout troops, farmers' organizations, school-community advisory councils, senior citizens' organizations, clubs, and associations formed for recreational, educational, political, economic, artistic, or moral activities of the public school districts may engage in supervised recreational activities, and where they may meet and discuss, from time to time, as they may desire, any subjects and questions which in their judgment pertain to the educational, political, economic, artistic, and moral interests of the citizens of the communities in which they reside.

(b) The governing board of any school district may grant the use of school facilities or grounds as a civic center upon the terms and conditions the board deems proper, subject to the limitations, requirements, and restrictions set forth in this article, for any of the following purposes:

(1) Public, literary, scientific, recreational, educational, or public agency meetings.

(2) The discussion of matters of general or public interest.

(3) The conduct of religious services for temporary periods, on a one-time or renewable basis, by any church or religious organization which has no suitable meeting place for the conduct of the services, provided the governing board charges the church or religious organization using the school facilities or grounds a fee as specified in subdivision (c) of Section 40043.

(4) Child care or day care programs to provide supervision and activities for children of preschool and elementary school age.

(5) The administration of examinations for the selection of personnel or the instruction of precinct board members by public agencies.

(6) Supervised recreational activities.

(7) Other purposes deemed appropriate by the governing board.

CHAPTER 730

An act to amend Sections 45266 and 88086 of the Education Code, relating to schools.

[Approved by Governor September 17, 1985 Filed with Secretary of State September 18, 1985]

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

SECTION 1. Section 45266 of the Education Code is amended to read:

45266. (a) The personnel director shall be responsible to the commission for carrying out all procedures in the administration of the classified personnel in conformity with this article and the rules of the commission, and shall be free of prejudgment or bias in order to ensure the impartiality of the commission. He or she shall also act as secretary of the commission and shall prepare, or cause to be prepared, an annual report which shall be sent by the commission to the governing board.

(b) A personnel director shall not advise or make recommendations to the commission regarding any disciplinary action appealed to the commission under Section 45305, if the personnel director is the party who brought the action against the employee.

SEC. 2. Section 88086 of the Education Code is amended to read:

88086. (a) The personnel director shall be responsible to the commission for carrying out all procedures in the administration of the classified personnel in conformity with this article and the rules of the commission, and shall be free of prejudgment or bias in order to ensure the impartiality of the commission. He or she shall also act as secretary of the commission and shall prepare, or cause to be prepared, an annual report which shall be sent by the commission to the governing board.

(b) A personnel director shall not advise or make recommendations to the commission regarding any disciplinary action appealed to the commission under Section 88124, if the personnel director is the party who brought the action against the employee.

CHAPTER 731

An act to add Section 1152.5 to the Evidence Code, relating to mediation.

[Approved by Governor September 17, 1985 Filed with Secretary of State September 18, 1985]

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

SECTION 1. Section 1152.5 is added to the Evidence Code, to read:

1152.5. (a) Subject to the conditions and exceptions provided in this section, when persons agree to conduct and participate in a mediation for the purpose of compromising, settling, or resolving a dispute:

(1) Evidence of anything said or of any admission made in the course of the mediation is not admissible in evidence, and disclosure of any such evidence shall not be compelled, in any civil action in which, pursuant to law, testimony can be compelled to be given.

(2) Unless the document otherwise provides, no document prepared for the purpose of, or in the course of, or pursuant to, the mediation, or copy thereof, is admissible in evidence, and disclosure of any such document shall not be compelled, in any civil action in which, pursuant to law, testimony can be compelled to be given.

(b) Subdivision (a) does not limit the admissibility of evidence if all persons who conducted or otherwise participated in the mediation consent to its disclosure.

(c) This section does not apply unless, before the mediation begins, the persons who agree to conduct and participate in the mediation execute an agreement in writing that sets out the text of subdivisions (a) and (b) and states that the persons agree that this section shall apply to the mediation.

(d) This section does not apply where the admissibility of the evidence is governed by Section 4351.5 or 4607 of the Civil Code or by Section 1747 of the Code of Civil Procedure.

(e) Nothing in this section makes admissible evidence that is inadmissible under Section 1152 or any other statutory provision, including, but not limited to, the sections listed in subdivision (d). Nothing in this section limits the confidentiality provided pursuant to Section 65 of the Labor Code.

(f) Paragraph (2) of subdivision (a) does not limit either of the following:

(1) The admissibility of the agreement referred to in subdivision (c).

(2) The effect of an agreement not to take a default in a pending civil action.

CHAPTER 732

An act to amend Sections 6700, 6704, 6712, 6716, 6732, 6751, 6754, 6759, and 6787 of, and to repeal Sections 6700.1, 6730.1, and 6767 of, the Business and Professions Code, relating to engineers.

[Approved by Governor September 17, 1985 Filed with Secretary of State September 18, 1985.]

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

SECTION 1. Section 6700 of the Business and Professions Code is amended to read:

6700. This chapter constitutes the chapter on professional engineers. It may be cited as the Professional Engineers Act.

SEC. 2. Section 6700.1 of the Business and Professions Code is repealed.

SEC. 3. Section 6704 of the Business and Professions Code is amended to read:

6704. In order to safeguard life, health, property, and public welfare, no person shall practice civil, electrical, or mechanical engineering unless appropriately registered or specifically exempted from registration under this chapter, and only persons registered under this chapter shall be entitled to take and use the titles "consulting engineer," "professional engineer," or "registered engineer," or any combination of those titles, and according to registration with the board the engineering branch titles specified in Section 6732, or the authority titles specified in Section 6763, or "engineer-in-training."

The provisions of this act pertaining to registration of professional engineers in the branches of chemical, electrical, industrial, mechanical, metallurgical, and petroleum engineering do not apply to employees in the communication industry; nor to the employees of contractors while engaged in work on communication equipment; however, those employees may not use the title unless registered.

The provisions of this section shall not prevent the use of the title "consulting engineer" by a person who has qualified for and maintained exemption for using that title under the provisions of Section 6732.1, or by a person licensed as a photogrammetric surveyor.

SEC. 3.5. Section 6712 of the Business and Professions Code is amended to read:

6712. All appointments to the board shall be for a term of four years. Vacancies shall be filled by appointment for the unexpired term. Each appointment thereafter shall be for a four-year term expiring on June 1 of the fourth year following the year in which the previous term expired.

Each member shall hold office until the appointment and qualification of his or her successor or until one year shall have

elapsed since the expiration of the term for which he or she was appointed, whichever first occurs. No person shall serve as a member of the board for more than two consecutive terms.

The Governor shall appoint professional members so that one is licensed to practice engineering as a civil engineer, one as an electrical engineer, one as a mechanical engineer, another is authorized to use the title of structural engineer, and one is a member of one of the remaining branches of engineering.

The Governor shall appoint five of the public members and the professional members qualified as provided in Section 6711. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member.

SEC. 4. Section 6716 of the Business and Professions Code is amended to read:

6716. The board may adopt rules and regulations consistent with law and necessary to govern its action. These rules and regulations shall be adopted in accordance with the provisions of the Administrative Procedure Act.

The board shall hold at least two regular meetings each year. Special meetings shall be held at such times as the board rules provide. A majority of the board constitutes a quorum. Except as otherwise provided by law, the vote required for any action of the board is a majority of the members present, but not less than five.

SEC. 5. Section 6730.1 of the Business and Professions Code is repealed.

SEC. 6. Section 6732 of the Business and Professions Code is amended to read:

6732. It is unlawful for anyone other than a professional engineer registered under this chapter, to stamp or seal any plans, specifications, plats, reports, or other documents with the seal or stamp of a professional engineer, or to in any manner use the title "professional engineer," "registered engineer," or "consulting engineer," or any of the following branch titles: "agricultural engineer," "chemical engineer," "civil engineer," "control system engineer," "corrosion engineer," "electrical engineer," "fire protection engineer," "industrial engineer," "manufacturing engineer," "mechanical engineer," "metallurgical engineer," "nuclear engineer," "petroleum engineer," "quality engineer," "safety engineer," "traffic engineer," or any combination of such words and phrases or abbreviations thereof unless registered hereunder.

SEC. 7. Section 6751 of the Business and Professions Code is amended to read:

6751. (a) The applicant for registration as a professional engineer shall comply with all of the following:

(1) Not have committed acts or crimes constituting grounds for denial of registration under Section 480.

(2) Furnish evidence of six years or more of experience in engineering work satisfactory to the board evidencing that the

applicant is competent to practice the character of engineering in the branch for which he or she is applying for registration, and successfully pass the second division of the examination.

(b) The applicant for certification as an engineer-in-training shall comply with all the following:

(1) Not have committed acts or crimes constituting grounds for denial of registration under Section 480.

(2) Successfully pass the first division of the examination.

SEC. 7.5. Section 6751 of the Business and Professions Code is amended to read:

6751. (a) The applicant for certification as an engineer-in-training shall comply with all of the following:

(1) Not have committed acts or crimes constituting grounds for denial of registration under Section 480.

(2) Successfully pass the first division of the examination. The applicant shall be eligible to sit for the first division of the examination after satisfactory completion of three years or more of college or university education in a board-approved engineering curriculum or after completion of three years or more of board-approved experience.

The board need not verify the applicant's eligibility other than to require the applicant to sign a statement of eligibility on the application form.

(b) The applicant for registration as a professional engineer shall comply with all of the following:

(1) Not have committed acts or crimes constituting grounds for denial of registration under Section 480.

(2) Furnish evidence of six years or more of qualifying experience in engineering work satisfactory to the board evidencing that the applicant is competent to practice the character of engineering in the branch for which he or she is applying for registration, and successfully pass the second division of the examination.

(3) The applicant for the second division of the examination shall successfully pass the first division examination or shall be exempt therefrom.

SEC. 8. Section 6754 of the Business and Professions Code is amended to read:

6754. Examination for registration shall be held at such times and places as the board shall determine.

The second division of the examination for all branches specified in Section 6732 shall be administered at least once each year.

Work of the board relating to examination and registration may be divided into committees as the board shall direct. The scope of examinations and the methods of procedure may be prescribed by board rule.

SEC. 9. Section 6759 of the Business and Professions Code is amended to read:

6759. The board, upon application therefor, on its prescribed form, and the payment of the application fee fixed by this chapter,

may issue a certificate of registration as a professional engineer, without written examination, to any person holding a certificate of registration issued to him or her by any state or country when the applicant's qualifications meet the requirements of this chapter, and rules established by the board. The board shall not require a comity applicant to meet any requirement not required of California applicants. For purposes of this section, equivalent second division examinations shall be eight-hour written examinations prepared by or administered by a state or territory either by single or combined branch at the level generally administered by the board to persons who passed or were exempted from the first division examination. Applicants who have passed an equivalent second division combined branch or a single branch examination in a branch not recognized for registration in California shall be registered in the branch in which their experience and education indicate the closest relationship.

SEC. 10. Section 6767 of the Business and Professions Code is repealed.

SEC. 11. 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 or she 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 or she 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 or her 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 or herself 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 or she 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," or the branch titles specified in Section 6732, or the authority titles specified in Section 6763, or "engineer-in-training," or who makes use of any abbreviation of such title which might lead to the belief that he or

she 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. 12. Section 7.5 of this bill incorporates amendments to Section 6751 of the Business and Professions Code proposed by both this bill and SB 128. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1986, (2) each bill amends Section 6751 of the Business and Professions Code, and (3) this bill is enacted after SB 128, in which case Section 7 of this bill shall not become operative.

CHAPTER 733

An act to amend Sections 22458.4 and 24458.4 of the Financial Code, relating to loans.

[Approved by Governor September 17, 1985. Filed with Secretary of State September 18, 1985.]

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

SECTION 1. Section 22458.4 of the Financial Code is amended to read:

22458.4. On any loan made which is secured in part by real property, an appraisal fee not to exceed the actual cost of the appraisal may be charged by the licensee if a written appraisal is rendered to the licensee by a qualified appraiser. Only one fee for appraising the same real property may be collected unless the borrower has obtained a new or additional loan and more than one year has elapsed since the prior appraisal. The fee is not included in charges as defined in this article or in determining the maximum charges which may be made under this article.

SEC. 2. Section 24458.4 of the Financial Code is amended to read:

24458.4. On any loan made which is secured by real property, an appraisal fee not to exceed the actual cost of the appraisal may be charged by the licensee if a written appraisal is rendered to the licensee by a qualified appraiser. Only one fee for appraising the same real property may be collected unless the borrower has obtained a new or additional loan and more than one year has elapsed since the prior appraisal. The fee is not included in charges as defined in this article or in determining the maximum charges which may be made under this article.

CHAPTER 734

An act to add Section 17538.7 to the Business and Professions Code, relating to consumer credit.

[Approved by Governor September 17, 1985 Filed with Secretary of State September 18, 1985.]

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

SECTION 1. Section 17538.7 is added to the Business and Professions Code, to read:

17538.7. (a) It is unlawful for a seller to advertise any payment, number of payments, or period of repayment for any goods, property, or services purchased through an extension of consumer credit under an open-end credit plan accepted for purchases by more than one seller unless the seller clearly and conspicuously discloses all of the following:

(1) The cash price and the amount or percentage of a downpayment, if any.

(2) The monthly or other periodic payment, the number of payments or the period of repayment, the total amount of all payments, and whether the monthly or other periodic payment is calculated on the assumption that the purchaser has no outstanding balance due under the open-end credit plan, if that is the case.

(3) The amount of the finance charge and any periodic rate that may be applied expressed as an annual percentage rate as described under subdivision (e). If the open-end credit plan provides for a variable periodic rate, that fact shall be disclosed.

(4) Any minimum, fixed, transaction, activity, or similar charge and any membership or participation fee that could be imposed.

(5) The name of the creditor, if not the seller.

(6) Whether the advertised terms are available to the purchaser only after the creditor's approval, if that is the case.

(b) (1) A catalog or other multiple-page advertisement that gives information in a table or schedule in sufficient detail to permit determination of the disclosures required by subdivision (a) shall be considered a single advertisement if (A) the table or schedule is clearly and conspicuously set forth, and (B) any statement of the amount of any payment, the number of payments, or the period of repayment appearing anywhere else in the catalog or advertisement clearly refers to the page on which the table or schedule begins.

(2) A catalog or multiple-page advertisement complies with subdivision (a) if the table or schedule includes all appropriate disclosures for a representative scale of amounts up to the level of the more commonly sold higher-priced property or services offered.

(c) It is unlawful for a seller to advertise any payment, number of payments, or period of repayment for particular goods, property, or services purchased through an extension of consumer credit under

any open-end credit plan unless the seller clearly and conspicuously discloses the cash price proximate to the advertised payment, number of payments, or period of repayment.

(d) It is unlawful for a seller to advertise terms that actually are not or will not be arranged or offered by the creditor.

(e) (1) For the purposes of this title, the terms "person," "creditor," "consumer credit," "open-end credit," "cash price," "downpayment," "finance charge," "periodic rate," and "annual percentage rate" have the same meaning as used in Regulation Z.

(2) The term "Regulation Z" shall mean any rule, regulation, or interpretation promulgated by the Board of Governors of the Federal Reserve System under the Federal Truth in Lending Act, (Public Law 90-321, as amended), and any interpretation or approval issued by an official or employee of the Federal Reserve System duly authorized by the board under the Truth in Lending Act, to issue those interpretations or approvals.

SEC. 2. No reimbursement is required by this act pursuant to 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 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 735

An act to amend Sections 13353 and 23206 of, to amend and renumber Sections 13353.5 and 13354 of, and to add Sections 23157 and 23159 to, the Vehicle Code, relating to driving offenses.

[Approved by Governor September 17, 1985 Filed with Secretary of State September 18, 1985]

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

SECTION 1. The Legislature finds that the state's drunk driving laws are not completely effective because of the refusal by many drivers to take the required chemical tests which show their intoxication. It is therefore the intent of the Legislature to enhance the penalties for refusal to complete the chemical test. It is further the intent of the Legislature to reorganize the Vehicle Code so that all current provisions related to the duty of a driver to submit to chemical tests are consolidated in the article prescribing offenses involving alcohol and drugs. This act shall be known, and may be cited as, the La Follette-Katz Chemical Test Enhancement Act.

SEC. 2. Section 13353 of the Vehicle Code is amended to read:

13353. (a) If any person refuses the officer's request to submit to, or fails to complete, a chemical test or tests pursuant to Section 23157, upon receipt of the officer's sworn statement that the officer had

reasonable cause to believe the person had been driving a motor vehicle in violation of Section 23152 or 23153 and that the person had refused to submit to, or did not complete, the test or tests after being requested by the officer, the department shall (1) suspend the person's privilege to operate a motor vehicle for a period of six months, (2) suspend the person's privilege to operate a motor vehicle for a period of one year if the person has previously been convicted of a violation of Section 23103 as specified in Section 23103.5, 23152, or 23153 within five years of the date of the refusal, or (3) revoke the person's privilege to operate a motor vehicle for a period for three years if the person has previously been convicted of two or more violations of Section 23103 as specified in Section 23103.5, 23152, or 23153 within five years of the date of the refusal. The officer's sworn statement shall be submitted on a form furnished or approved by the department. The suspension or revocation shall not become effective until 10 days after the giving of written notice thereof, or until the end of any stay of the suspension, as provided for in subdivision (c) or (d).

(b) The department shall immediately notify the person in writing of the action taken and, upon the person's request in writing and within 15 days from the date of receipt of that request, shall grant the person an opportunity for a hearing in the same manner and under the same conditions as provided in Article 3 (commencing with Section 14100) of Chapter 3, except as otherwise provided in this section. For purposes of this section, the scope of the hearing shall cover the issues of whether the peace officer had reasonable cause to believe the person had been driving a motor vehicle in violation of Section 23152 or 23153, whether the person was placed under arrest, whether the person refused to submit to, or did not complete, the test or tests after being requested by a peace officer, and whether, except for the persons described in subdivision (a) of Section 23157 who are incapable of refusing, the person had been told that his or her driving privilege would be suspended or revoked if he or she refused to submit to, or did not complete, the test or tests.

(c) An application for a hearing made by the affected person within 10 days of receiving notice of the department's action shall stay the suspension or revocation by the department for a period of 15 days. The department shall, within the period of 15 days, hold a hearing in the county in which the violation occurred. If the department does not grant a hearing within 15 days, the suspension or revocation shall not take place until the person is granted a hearing and is notified of the department's action as provided in subdivision (d). If the county in which the violation occurred is also the county of the person's residence, and the person requests that the hearing be continued to a date beyond the period of 15 days, the suspension or revocation shall become effective immediately upon receipt of the department's notice that the request for continuance has been granted. If the hearing is to be held in a county other than the county of the person's residence, the department shall, upon

request, grant the person a continuance of up to 15 days, and shall not suspend or revoke the license until after that time.

(d) If the department determines, upon a hearing of the matter, to suspend or revoke the affected person's privilege to operate a motor vehicle, the suspension or revocation shall not become effective until five days after receipt by the person of the department's notification of that suspension or revocation.

SEC. 3. Section 13353.5 of the Vehicle Code is amended and renumbered to read:

23157.5. (a) In addition to the requirements of Section 23157, a person who chooses to submit to a breath test shall be advised before or after the test that the breath-testing equipment does not retain any sample of the breath and that no breath sample will be available after the test which could be analyzed later by the person or any other person.

(b) The person shall also be advised that, because no breath sample is retained, the person will be given an opportunity to provide a blood or urine sample that will be retained at no cost to the person so that there will be something retained that may be subsequently analyzed for the alcoholic content of the person's blood. If the person completes a breath test and wishes to provide a blood or urine sample to be retained, the sample shall be collected and retained in the same manner as if the person had chosen a blood or urine test initially.

(c) The person shall also be advised that the blood or urine sample may be tested by either party in any criminal prosecution. The failure of either party to perform this test shall place no duty upon the opposing party to perform the test nor affect the admissibility of any other evidence of the alcoholic content of the blood of the person arrested

SEC. 4. Section 13354 of the Vehicle Code is amended and renumbered to read:

23158. (a) Only a licensed physician and surgeon, registered nurse, licensed vocational nurse, duly licensed clinical laboratory technologist or clinical laboratory bioanalyst, or certified paramedic acting at the request of a peace officer may withdraw blood for the purpose of determining the alcoholic content therein. This limitation does not apply to the taking of breath specimens. An emergency call for paramedic services takes precedence over a peace officer's request for a paramedic to withdraw blood for determining its alcoholic content. A certified paramedic shall not withdraw blood for this purpose unless authorized by his or her employer to do so.

(b) The person tested may, at his own expense, have a licensed physician and surgeon, registered nurse, licensed vocational nurse, duly licensed clinical laboratory technologist or clinical laboratory bioanalyst, or any other person of his or her own choosing administer a test in addition to any test administered at the direction of a peace officer for the purpose of determining the amount of alcohol in the person's blood at the time alleged as shown by chemical analysis of

his or her blood, breath, or urine. The failure or inability to obtain an additional test by a person does not preclude the admissibility in evidence of the test taken at the direction of a peace officer.

(c) Upon the request of the person tested, full information concerning the test taken at the direction of the peace officer shall be made available to the person or the person's attorney.

(d) Notwithstanding any other provision of law, no licensed physician and surgeon, registered nurse, licensed vocational nurse, duly licensed clinical laboratory technologist or clinical laboratory bioanalyst, or certified paramedic, or hospital, laboratory, or clinic employing or utilizing the services of the licensed physician and surgeon, registered nurse, licensed vocational nurse, duly licensed laboratory technologist or clinical laboratory bioanalyst, or certified paramedic, owning or leasing the premises on which tests are performed, shall incur any civil or criminal liability as a result of the administering of a blood test in a reasonable manner in a hospital, medical laboratory, or medical clinic environment, according to accepted medical practices, without violence by the person administering the test, and when requested in writing by a peace officer to administer the test.

(e) If the test given under Section 23157 is a chemical test of urine, the person tested shall be given such privacy in the taking of the urine specimen as will ensure the accuracy of the specimen and, at the same time, maintain the dignity of the individual involved.

(f) The department, in cooperation with the State Department of Health Services or any other appropriate agency, shall adopt uniform standards for the withdrawal, handling, and preservation of blood samples prior to analysis.

(g) As used in this section, "certified paramedic" does not include any employee of a fire department.

(h) Consent, waiver of liability, or the offering to, acceptance by, or refusal of consent or waiver of liability by the person on whom a test is administered, is not an issue or relevant to the immunity from liability for medical personnel or the medical facility under subdivision (d).

SEC. 5. Section 23157 is added to the Vehicle Code, to read:

23157. (a) (1) Any person who drives a motor vehicle is deemed to have given his or her consent to chemical testing of his or her blood, breath, or urine for the purpose of determining the alcoholic content of his or her blood, and to have given his or her consent to chemical testing of his or her blood or urine for the purpose of determining the drug content of his or her blood, if lawfully arrested for any offense allegedly committed in violation of Section 23152 or 23153. The testing shall be incidental to a lawful arrest and administered at the direction of a peace officer having reasonable cause to believe the person was driving a motor vehicle in violation of Section 23152 or 23153. The person shall be told that his or her failure to submit to, or the noncompletion of, the required chemical testing will result in (A) mandatory imprisonment if the person is

convicted of a violation of Section 23152 or 23153, (B) the suspension of the person's privilege to operate a motor vehicle for a period of six months, (C) the suspension of the person's privilege to operate a motor vehicle for a period of one year if the person has previously been convicted of a violation of Section 23103 as specified in Section 23103.5, 23152, or 23153 within five years of the date of the refusal, or (D) the revocation of the person's privilege to operate a motor vehicle for a period of three years if the person has previously been convicted of two or more violations of Section 23103 as specified in Section 23103.5, 23152, or 23153 within five years of the date of the refusal.

(2) (A) If the person is lawfully arrested for driving under the influence of an alcoholic beverage, the person has the choice of whether the test shall be of his or her blood, breath, or urine, and the person shall be advised by the officer that he or she has that choice. If the person arrested either is incapable, or states that he or she is incapable, of completing any chosen test, the person shall submit to the person's choice of the remaining tests or test, and the person shall be advised by the officer that the person has that choice.

(B) If the person is lawfully arrested for driving under the influence of any drug or the combined influence of an alcoholic beverage and any drug, the person has the choice of whether the test shall be of his or her blood, breath, or urine, and the person shall be advised by the officer that he or she has that choice.

A person who chooses to submit to a breath test may also be required to submit to a blood or urine test if the officer has reasonable cause to believe that the person was driving under the influence of any drug or the combined influence of an alcoholic beverage and any drug and if the officer has a clear indication that a blood or urine test will reveal evidence of the person being under the influence. The officer shall state in his or her report the facts upon which that belief and that clear indication are based. The person has the choice of submitting to and completing a blood or urine test, and shall be advised by the officer that he or she is required to submit to an additional test and that he or she may choose a test of either blood or urine. If the person arrested either is incapable, or states that he or she is incapable, of completing either chosen test, the person shall submit to and complete the other remaining test.

(3) If the person is lawfully arrested for an offense allegedly committed in violation of Section 23152 or 23153, and, because of the need for medical treatment, the person is first transported to a medical facility where it is not feasible to administer a particular test of, or to obtain a particular sample of, the person's blood, breath, or urine, the person has the choice of those tests which are available at the facility to which that person has been transported. In such an event, the officer shall advise the person of those tests which are available at the medical facility and that the person's choice is limited to those tests which are available.

(4) The person shall also be advised by the officer that he or she does not have the right to have an attorney present before stating whether he or she will submit to a test or tests, before deciding which test or tests to take, or during administration of the test or tests chosen, and shall also be advised by the officer that, in the event of refusal to submit to a test or tests, the refusal may be used against him or her in a court of law.

(5) Any person who is unconscious or otherwise in a condition rendering him or her incapable of refusal is deemed not to have withdrawn his or her consent and a test or tests may be administered whether or not the person is told that his or her failure to submit to, or the noncompletion of, the test or tests will result in the suspension of his or her privilege to operate a motor vehicle. Any person who is dead is deemed not to have withdrawn his or her consent and a test or tests may be administered at the direction of a peace officer.

(b) Any person who is afflicted with hemophilia is exempt from the blood test required by this section.

(c) Any person who is afflicted with a heart condition and is using an anticoagulant under the direction of a licensed physician and surgeon is exempt from the blood test required by this section.

(d) A person lawfully arrested for any offense allegedly committed while the person was driving a motor vehicle in violation of Section 23152 or 23153 may request the arresting officer to have a chemical test made of the arrested person's blood, breath, or urine for the purpose of determining the alcoholic content of that person's blood, and, if so requested, the arresting officer shall have the test performed.

SEC. 6. Section 23159 is added to the Vehicle Code, to read:

23159. (a) If any person is convicted of a violation of Section 23152 or 23153, and at the time of the arrest leading to that conviction that person willfully refused a peace officer's request to submit to, or willfully failed to complete, the chemical test or tests pursuant to Section 23157, the court shall impose the following penalties:

(1) If the person is convicted of a first violation of Section 23152, notwithstanding any other provision of subdivision (a) of Section 23161, the terms and conditions of probation shall include the conditions in paragraph (1) of subdivision (a) of Section 23161.

(2) If the person is convicted of a first violation of Section 23153, the punishment prescribed in this article shall be enhanced by an imprisonment of 48 continuous hours in the county jail, whether or not probation is granted and no part of which may be stayed, unless the person is sentenced to, and incarcerated in, the state prison and the execution of that sentence is not stayed.

(3) If the person is convicted of a second violation of Section 23152, punishable under Section 23165, or a second violation of Section 23153, punishable under Section 23185, the punishment prescribed in this article shall be enhanced by an imprisonment of 96 hours in the county jail, whether or not probation is granted and no part of which may be stayed, unless the person is sentenced to,

and incarcerated in, the state prison and execution of that sentence is not stayed.

(4) If the person is convicted of a third violation of Section 23152, punishable under Section 23170, the punishment prescribed in this article shall be enhanced by an imprisonment of 10 days in the county jail, whether or not probation is granted and no part of which may be stayed.

(5) If the person is convicted of a fourth or subsequent violation of Section 23152, punishable under Section 23175, the punishment prescribed in this article shall be enhanced by imprisonment of 18 days in the county jail, whether or not probation is granted and no part of which may be stayed.

(b) The willful refusal or failure to complete the chemical test required pursuant to Section 23157 shall be pled and proven.

SEC. 7. Section 23206 of the Vehicle Code is amended to read:

23206. (a) If any person is convicted of a violation of Section 23152 or 23153, the court shall not stay or suspend pronouncement of sentencing and shall pronounce sentence in conjunction with the conviction in a reasonable time, including time for receipt of any presentence investigation report ordered pursuant to Section 23205.

(b) If any person is convicted of a violation of Section 23152 or 23153 and is granted probation, the terms and conditions of probation shall include, but not be limited to the following:

(1) A period of probation not less than three years.

(2) A requirement that the person shall not drive a vehicle with any measurable amount of alcohol in his or her blood.

(3) A requirement that the person, if arrested for a violation of Section 23152 or 23153, shall not refuse to submit to a chemical test of his or her blood, breath, or urine, pursuant to Section 23157, for the purpose of determining the alcoholic content of his or her blood.

(4) A requirement that the person shall not commit any criminal offense.

(c) The court shall not absolve a person who is convicted of a violation of Section 23152 or 23153 from the obligation of spending the minimum time in confinement, if any, or of paying the minimum fine provided in this article.

(d) In addition to any other provision of law, if any person violates paragraph (3) of subdivision (b), or violates paragraph (2) of subdivision (b) and the person had a blood alcohol concentration of over 0.04 percent as determined by a chemical test, the court shall revoke or terminate the person's probation as provided by Section 23207, regardless of any other proceeding, and shall only grant a new term of probation of not more than three years on the added condition that the person be confined in the county jail for not less than 48 hours for each of these violations of probation, except in unusual cases where the interests of justice would best be served if this additional condition were not imposed.

SEC. 8. No reimbursement is required by this act pursuant to 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 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 736

An act to amend Sections 21200 and 27400 of the Vehicle Code, relating to vehicle operations.

[Approved by Governor September 17, 1985 Filed with Secretary of State September 18, 1985]

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

SECTION 1. Section 21200 of the Vehicle Code is amended to read:

21200. (a) Every person riding a bicycle upon a highway shall have all the rights and shall be subject to all the provisions applicable to the driver of a vehicle by this division, including, but not limited to, provisions dealing with driving under the influence of alcoholic beverages or drugs, and by Division 10 (commencing with Section 20000), Section 27400, Division 16.7 (commencing with Section 39000), Division 17 (commencing with Section 40000), and Division 18 (commencing with Section 42000), except those provisions which by their very nature can have no application.

(b) Any person who rides a bicycle upon a highway while under the influence of an alcoholic beverage or drugs, or under the combined influence thereof, shall be punished by a fine of not more than two hundred fifty dollars ($250).

SEC. 1.5. Section 21200 of the Vehicle Code is amended to read:

21200. Every person riding a bicycle upon a highway has all the rights and is subject to all the provisions applicable to the driver of a vehicle by this division, including, but not limited to, provisions dealing with driving under the influence of alcoholic beverages or drugs, and by Division 10 (commencing with Section 20000), Section 27400, Division 16.7 (commencing with Section 39000), Division 17 (commencing with Section 40000), and Division 18 (commencing with Section 42000), except those provisions which by their very nature can have no application.

SEC. 2. Section 27400 of the Vehicle Code is amended to read:

27400. No person operating any motor vehicle or bicycle shall wear any headset covering, or any earplugs in, both ears. The prohibition of this section does not apply to any of the following:

(a) Persons operating authorized emergency vehicles, as defined in Section 165.

(b) Any person engaged in the operation of either special construction equipment or equipment for use in the maintenance of

any highway.

(c) Any person engaged in the operation of refuse collection equipment who is wearing a safety headset or safety earplugs.

(d) Any person wearing personal hearing protectors in the form of custom earplugs or molds that are designed to attenuate injurious noise levels. The custom plugs or molds shall be designed in a manner so as to not inhibit the wearer's ability to hear a siren or horn from an emergency vehicle or a horn from another motor vehicle.

(e) Any person using a prosthetic device which aids the hard of hearing.

SEC. 3. Section 1.5 of this bill incorporates amendments to Section 21200 of the Vehicle Code proposed by both this bill and Assembly Bill No. 1414. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1986, (2) each bill amends Section 21200 of the Vehicle Code, and (3) this bill is enacted after Assembly Bill No. 1414, in which case Section 1 of this bill shall not become operative.

SEC. 4. No reimbursement is required by this act pursuant to 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 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 737

An act to add Section 43.92 to the Civil Code, relating to personal rights.

[Approved by Governor September 17, 1985 Filed with Secretary of State September 18, 1985]

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

SECTION 1. Section 43.92 is added to the Civil Code, to read:

43.92. (a) There shall be no monetary liability on the part of, and no cause of action shall arise against, any person who is a psychotherapist as defined in Section 1010 of the Evidence Code in failing to warn of and protect from a patient's threatened violent behavior or failing to predict and warn of and protect from a patient's violent behavior except where the patient has communicated to the psychotherapist a serious threat of physical violence against a reasonably identifiable victim or victims.

(b) If there is a duty to warn and protect under the limited circumstances specified above, the duty shall be discharged by the psychotherapist making reasonable efforts to communicate the threat to the victim or victims and to a law enforcement agency.

CHAPTER 738

An act to add Section 66474.01 to the Government Code, relating to environmental quality.

[Approved by Governor September 17, 1985 Filed with Secretary of State September 18, 1985]

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

SECTION 1. Section 66474.01 is added to the Government Code, to read:

66474.01. Notwithstanding subdivision (e) of Section 66474, a local government may approve a tentative map, or a parcel map for which a tentative map was not required, if an environmental impact report was prepared with respect to the project and a finding was made pursuant to subdivision (c) of Section 21081 of the Public Resources Code that specific economic, social, or other considerations make infeasible the mitigation measures or project alternatives identified in the environmental impact report.

CHAPTER 739

An act to add Section 40515 to the Health and Safety Code, relating to air pollution, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 17, 1985 Filed with Secretary of State September 18, 1985.]

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

SECTION 1. Section 40515 is added to the Health and Safety Code, to read:

40515. (a) Any public utility owned by a municipal corporation within the south coast district shall provide public notice, pursuant to subdivision (b), before submitting to the board of the south coast district any application for a permit to construct or operate any facility, machine, or contrivance which would be used for water treatment and would emit toxic air contaminents.

(b) A public utility specified in subdivision (a) shall mail, post, deliver, or use any other practical method to notify all residents and persons who own property within 330 feet of the property containing the proposed facility, machine, or contrivance. The notice shall include a description of the proposed facility, machine, or contrivance and an explanation of the right to petition the south coast district board to hold a hearing pursuant to Section 40509.

(c) This section only applies to any facility, machine, or

contrivance on which construction began subsequent to May 24, 1985.

SEC. 2. The Legislature hereby finds and declares that this bill is not a special statute within the meaning of Section 16 of Article IV of the California Constitution, as utilities owned by municipal corporations are given special consideration before air quality management districts when applying for a permit, as their actions are presumed to be in the interest of the people.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution 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. 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 protect the health and safety of the people, it is necessary that this act take effect immediately.

CHAPTER 740

An act to amend Section 32027 of, and add Section 32061.5 to, the Public Resources Code, relating to waterfront restoration.

[Approved by Governor September 17, 1985 Filed with Secretary of State September 18, 1985]

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

SECTION 1. Section 32027 of the Public Resources Code is amended to read:

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 centers, shoreline protection and erosion control facilities, and administrative facilities necessary for the operation of coastal dependent activities. Project does not include new permanent residential structures, office structures for nonmaritime purposes on lands subject to the public trust for commerce, navigation, and fisheries, noncoastal dependent industrial facilities, or other noncoastal related uses, or industrial facilities or other uses that are unrelated to an inland waterfront. A project may include office structures on lands not subject to the public trust for commerce, navigation, and fisheries, or office structures for maritime purposes on lands subject to the public trust for commerce, navigation, and fisheries, if the State Coastal Conservancy finds that the project physically includes all of the elements specified in paragraph (2) of subdivision (b) of Section 32059.

SEC. 2. Section 32061.5 of the Public Resources Code, is added to read:

32061.5. The activities of the conservancy in carrying out its responsibilities under this division shall be deemed to be consistent with and in furtherance of Chapter 7 (commencing with Section 31300) of Division 21.

The conservancy may pay for its support costs associated with this division from any funding source appropriated and available to it which may be used to fund its support activities under that Chapter 7. However, the conservancy shall keep records of its support expenditures associated with projects which may receive any or all of their funding pursuant to this division and, if the authority ultimately issues bonds for any such project, the conservancy shall seek repayment of its support costs with respect to that project from the authority. The authority shall reimburse the conservancy for its necessary and reasonable support costs in developing projects which are funded pursuant to this division.

Nothing in this section precludes the authority from reimbursing the conservancy for additional costs associated with its responsibilities under this division.

CHAPTER 741

An act to amend Sections 1040, 1241, and 35035 of, and to add Section 35015 to, the Education Code, relating to education.

[Approved by Governor September 17, 1985 Filed with Secretary of State September 18, 1985.]

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

SECTION 1. It is the intent of the Legislature, in enacting this act, that county boards of education, the governing boards of school districts, the Controller, and the Superintendent of Public Instruction have early notice, through the fiscal reports required by this act and other statutes, of any risk of a local education agency not meeting its financial obligations for the remainder of the fiscal year.

SEC. 2. Section 1040 of the Education Code is amended to read:

1040. County boards of education shall:

(a) Adopt rules and regulations not inconsistent with the laws of this state, for their own government.

(b) Keep a record of their proceedings.

(c) Approve the annual budget of the county superintendent of schools before its submission to the county board of supervisors.

(d) Approve the annual county school service fund budget of the county superintendent of schools before its submission to the Superintendent of Public Instruction.

(e) Review, as a scheduled agenda item at a regularly scheduled public meeting held pursuant to Article 1 (commencing with Section 1000) of this chapter, the report of the annual audit provided for by the county superintendent of schools under Section 41020

SEC. 3. Section 1241 of the Education Code is amended to read:

1241. The county superintendent of schools shall also:

(a) Enforce the course of study.

(b) Enforce the use of state textbooks and of high school textbooks regularly adopted by the proper authority.

(c) Preserve carefully all reports of school officers and teachers.

(d) Deliver to his or her successor, at the close of his or her official term, all records, books, documents, and papers belonging to the office, taking a receipt for them, which shall be filed with the State Department of Education.

(e) Submit two quarterly reports during the fiscal year to the county board of education. The reports shall cover the financial and budgetary status of the county office of education during the first and third quarters of the fiscal year and shall be submitted to the county board of education within 45 days of the conclusion of the first and third quarters of the fiscal year. As part of each report, the superintendent shall certify in writing whether or not the county office of education is able to meet its financial obligations for the remainder of the fiscal year. Copies of each report in which the superintendent is unable to certify unqualifiedly that these financial obligations will be met shall be sent to the Controller and the Superintendent of Public Instruction at the time it is submitted to the county board of education, together with a completed transmittal form provided by the Controller.

Each report shall specify outstanding obligations of the county office of education and significant budgetary and financial conditions known to exist at the time of certification by the superintendent.

Each report shall be based upon the financial and budgetary reports normally submitted by county superintendents of schools as required by Section 1245 and other statutory provisions.

This subdivision does not preclude the submission of additional budgetary or financial reports by the superintendent to the county board of education or the Superintendent of Public Instruction.

SEC. 4. Section 35015 is added to the Education Code, to read:

35015. Within 30 days after receiving the information from the superintendent pursuant to subdivision (g) of Section 35035, the governing board of each school district shall certify in writing whether or not the school district is able to meet its financial obligations for the remainder of the fiscal year. These certifications shall be based upon the financial and budgetary reports required by subdivision (g) of Section 35035 but may include additional financial information known by the governing board to exist at the time of each certification. Copies of any certification in which the governing board is unable to certify unqualifiedly that these financial obligations will be met shall be sent to the Controller and the Superintendent of Public Instruction at the time of the certification, together with a completed transmittal form provided by the Controller.

SEC. 5. Section 35035 of the Education Code is amended to read:

35035. The superintendent of each school district shall, in addition to any other powers and duties granted to or imposed upon him or her:

(a) Be the chief executive officer of the governing board of the district.

(b) Except in a district where the governing board has appointed or designated an employee other than the superintendent, or a deputy, or assistant superintendent, to prepare and submit a budget, prepare and submit to the governing board of the district, at such time as it may direct, the budget of the district for the next ensuing school year, and revise and take such other action in connection with the budget as the board may desire.

(c) Subject to the approval of the governing board, assign all employees of the district employed in positions requiring certification qualifications, to the positions in which they are to serve. This power to assign includes the power to transfer a teacher from one school to another school at which the teacher is certificated to serve within the district when the superintendent concludes that the transfer is in the best interest of the district.

(d) Upon adoption, by the district board, of a district policy concerning transfers of teachers from one school to another school within the district, have authority to transfer teachers consistent with that policy.

(e) Determine that each employee of the district in a position requiring certification qualifications has a valid certificated document registered as required by law authorizing him or her to serve in the position to which he or she is assigned.

(f) Enter into contracts for and on behalf of the district pursuant to Section 39656.

(g) Submit two quarterly reports during the fiscal year to the governing board. The reports shall cover the financial and budgetary status of the district during the first and third quarters of the fiscal year and shall be submitted to the governing board within 30 days of the conclusion of the first and third quarters of the fiscal year. As part of each report, the superintendent shall identify outstanding obligations of the district.

SEC. 6. Reimbursement to local agencies and school districts for costs mandated by the state pursuant to this act shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code and, if the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), shall be made from the State Mandates Claims Fund.

CHAPTER 742

An act to amend Sections 19617.5 and 19617.7 of the Business and Professions Code, relating to horseracing.

[Approved by Governor September 17, 1985. Filed with Secretary of State September 18, 1985]

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

SECTION 1. 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. The organization making the distribution may, with the approval of the board, make a deduction for expenses not to exceed 10 percent of the total amount deducted.

(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. 2. 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 10 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 races having a total purse value equal to, or in excess of, the average purse value for races, other than stakes races, won by California-bred quarter horses during the previous 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.

If 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.

CHAPTER 743

An act to amend Section 12506 of the Vehicle Code, relating to driver's licenses.

[Approved by Governor September 17, 1985 Filed with Secretary of State September 18, 1985]

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

SECTION 1. Section 12506 of the Vehicle Code is amended to read:

12506. The department may issue a temporary driver's license to any person applying for a driver's license, to any person applying for renewal of a driver's license, or to any licensee whose license is required to be changed, added to, or modified. Notwithstanding subdivision (d) of Section 12805, the department may issue a temporary driver's license to an applicant who has previously been licensed in this state or in any other state, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or the Dominion of Canada, notwithstanding that the applicant has failed the written examination on the person's first attempt.

A temporary license permits the operation of a motor vehicle upon the highways for a period of 60 days, if the licensee has the temporary license in his or her immediate possession, and while the department is completing its investigation and determination of all facts relative to the applicant's right to receive a license. The temporary license is invalid when the applicant's license has been issued or refused.

CHAPTER 744

An act to add Section 89011 to the Education Code, relating to the California State University, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 17, 1985 Filed with Secretary of State September 18, 1985]

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

SECTION 1. Section 89011 is added to the Education Code, to read:

89011. (a) It is the intent of the Legislature that public programs of postsecondary education be made available to qualified persons throughout this state, including areas of substantial existing or projected population that are isolated from any campus of the California State University.

(b) The Trustees of the California State University shall consider the establishment of a permanent, state-supported off-campus center on state-owned property in Contra Costa County, the purpose of which shall be to continue to offer education programs at the upper division and graduate levels.

(c) Pursuant to the establishment of a permanent, state-supported off-campus center as provided by subdivision (b), the trustees shall contract for the preparation of a master plan for physical development, and a detailed survey of Contra Costa County, as follows:

(1) The master plan for the physical development of the center shall project major land uses, including open space, and the development of physical facilities, including those relating to lecture and laboratory use, and other instructional activities, site work, plant operations, and adjunct operations. The master plan shall be subject to the approval of the Trustees of the California State University.

(2) The detailed survey of Contra Costa County shall include, but not be limited to, official population projections, an industry and income profile, an analysis of specific education program requirements of potentially qualified students, an assessment of the need for educational services at the upper division and graduate levels, and an assessment of the services currently provided by other public and private institutions of postsecondary education, including the University of California and the California Community Colleges.

(d) The trustees shall review the results of the master plan and survey and shall forward the results to the California Postsecondary Education Commission for its review pursuant to Section 66904.

(e) The trustees shall develop explicit criteria for the approval of any proposals for state-supported off-campus centers of postsecondary education, and shall submit the criteria to the California Postsecondary Education Commission for its review. No later than July 1, 1986, the trustees shall submit the criteria to the Legislature, and the commission shall submit to the Legislature its recommendations concerning the criteria.

SEC. 2. The sum of one hundred fifty thousand dollars ($150,000) is hereby appropriated from the General Fund to the California State University for allocation as follows, pursuant to the establishment of a permanent off-campus center as provided by Section 89011 of the Education Code:

(a) One hundred thousand dollars ($100,000) for the preparation of a master plan for the physical development of the center:

(b) Fifty thousand dollars ($50,000) for a detailed survey of Contra Costa County.

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

In order to ensure the availability of adequate upper division and graduate level educational opportunities in Contra Costa County, at

the earliest possible opportunity, it is necessary that this act take effect immediately.

CHAPTER 745

An act to amend, repeal, and add Section 1808.4 of the Vehicle Code, relating to the Department of Motor Vehicles.

[Approved by Governor September 18, 1985 Filed with Secretary of State September 18, 1985.]

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

SECTION 1. Section 1808.4 of the Vehicle Code is amended to read:

1808.4. The home address of any Member of the Legislature, any judge or court commissioner, any district attorney, or 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 the spouse or children of a peace officer whether living with the peace officer or not, appearing in any record of the department is confidential if the Member of the Legislature, the judge, court commissioner, district attorney, or peace officer requests confidentiality of that information, and shall not be disclosed to any person, except a court, a law enforcement agency, the State Board of Equalization, or any governmental agency to which, under any provision of law, information is required to be furnished from records maintained by the department. Any record of the department containing such a confidential home address shall be open to public inspection, as provided in Section 1808, if the address is completely obliterated or otherwise removed from the record. The department shall tell any person who requests a confidential home address what law enforcement agency or department the individual whose address was requested works for or the court at which the judge or court commissioner presides.

This section shall remain in effect only until July 1, 1986, and as of that date is repealed, unless a later enacted statute, which is enacted before July 1, 1986, deletes or extends that date.

SEC. 2. Section 1808.4 is added to the Vehicle Code, to read:

1808.4. The home address of the Attorney General, the State Public Defender, any Member of the Legislature, judge or court commissioner, district attorney, public defender, any attorney employed by the Department of Justice, office of the State Public Defender, or a county office of the district attorney or public defender, or a peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code or the spouse or children of a peace officer whether living with the peace officer or not, appearing in any record of the department is confidential if

the person requests confidentiality of that information, and shall not be disclosed to any person, except a court, a law enforcement agency, the State Board of Equalization, or any governmental agency to which, under any provision of law, information is required to be furnished from records maintained by the department. Any record of the department containing a confidential home address shall be open to public inspection, as provided in Section 1808, if the address is completely obliterated or otherwise removed from the record. The department shall inform any person who requests a confidential home address what agency the individual whose address was requested is employed by or the court at which the judge or court commissioner presides.

This section shall become operative on July 1, 1986.

SEC. 3. No reimbursement is required by this act pursuant to 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 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 746

An act to add Section 9408.5 to the Welfare and Institutions Code, relating to elderly persons, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 18, 1985. Filed with Secretary of State September 18, 1985]

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

SECTION 1. Section 9408.5 is added to the Welfare and Institutions Code, to read:

9408.5. The department may, where necessary to ensure the effective operation of a multipurpose senior services program, advance to the program's local government administering agency, an amount not to exceed 25 percent of the estimated annual allocation to the program, under this chapter, as determined by the department pursuant to the estimated annual budget submitted by the program. Subsequent payments to the local government administering agency for the multipurpose senior services program shall be prorated to reflect any advance payment made under this section.

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

In order to ensure the effective operation of multipurpose senior

services programs at the earliest possible time, it is necessary that this act go into immediate effect.

CHAPTER 747

An act to amend Section 44830 of the Education Code, relating to certificated employees.

[Approved by Governor September 18, 1985 Filed with Secretary of State September 18, 1985]

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

SECTION 1. Section 44830 of the Education Code 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 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 that 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. A person holding a valid California credential who has not been employed in a position requiring certification in any school district within 39 months prior to employment and who has not taken the state basic skills proficiency test, but who has passed a basic skills proficiency examination which has been developed and administered by the school district offering that person employment, may be employed by the governing board of that school district on a temporary basis on the condition that he or she will take the state basic skills proficiency test within one year of the date of his or her employment.

(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.

CHAPTER 748

An act relating to state fiscal affairs.

[Approved by Governor September 18, 1985 Filed with Secretary of State September 18, 1985.]

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

SECTION 1. The Bagley Conservation Fund, which was created by subdivision (b) of Section 316 of Chapter 1 of the Statutes of 1971 (First Extraordinary Session), is hereby abolished. Any encumbered balance in that fund is hereby transferred to the State Parks and Recreation Fund, and any appropriation made from the Bagley Conservation Fund shall be paid as if the appropriation had been made from the State Parks and Recreation Fund.

CHAPTER 749

An act to add Section 1603.1 to the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 18, 1985. Filed with Secretary of State September 18, 1985]

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

SECTION 1. Section 1603.1 is added to the Revenue and Taxation Code, to read:

1603.1. (a) Notwithstanding any other provision of this division, an application for a reduction in an assessment on the current or supplemental roll may be filed with the county board at any time if the party affected or his or her agent and the assessor stipulate that there is an error in the assessment as the result of the exercise of the assessor's judgment in determining the full cash value of the property.

(b) Upon application for a reduction in an assessment pursuant to subdivision (a), the county board shall hear all the evidence pertinent to the application, including the facts that gave rise to the erroneous assessment, and shall make its own determination of the property's full cash value. In no event shall the county board accept a written stipulation as to the full cash value of the property, as provided in Section 1607, or waive the appearance of the party affected or his or her agent or the assessor.

SEC. 2. No reimbursement shall be made from the State Mandates Claims Fund pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code for costs mandated by the state pursuant to this act. It is recognized,

however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Part 7 (commencing with Section 17500) and any other provisions of law.

CHAPTER 750

An act relating to tourism.

[Approved by Governor September 18, 1985 Filed with Secretary of State September 18, 1985.]

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

SECTION 1. The Legislature hereby finds and declares that in order to measure the movement of tourism in California, it is necessary to obtain additional information on employment and state and local tax revenues attributable to tourism and travel in California.

SEC. 2. The Employment Development Department shall develop estimates of employment for the California tourism industry based upon data from the employment statistics program.

SEC. 3. The Office of Tourism, by June 30, 1986, shall recommend to the Governor and to the Legislature methods which may be used to regularly collect and disseminate data on state and local tax revenues attributable to the California tourism and travel industry.

CHAPTER 751

An act to amend Sections 29040, 29044, 29061, 29065, 29066, 29080, 29081, 29082, 29083, 29084, 29085, 29086, 29088, 29089, 29091, 29092, 29093, 29100, 29100.6, 29101, 29102, 29103, 29104, 29106, 29109, 29120, 29121, 29122, 29124, 29125, 29131, 29140, 29141, 29142, and 30200 of, to add Sections 29065.5 and 29144 to, to repeal and add Article 1 (commencing with Section 29000) to Chapter 1 of Division 3 of Title 3, to repeal and add Section 29130 to, and to repeal Sections 29041, 29082.5, 29087, 29100.1, 29100.7, 29105, 29108, 29123, 29130.3, 29130.5, and 29141.1 of, the Government Code, relating to local agencies.

[Approved by Governor September 18, 1985 Filed with Secretary of State September 18, 1985.]

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

SECTION 1. Article 1 (commencing with Section 29000) of Chapter 1 of Division 3 of Title 3 of the Government Code is repealed.

SEC. 2. Article 1 (commencing with Section 29000) is added to

Chapter 1 of Division 3 of Title 3 of the Government Code, to read:

Article 1. General

29000. Unless the context otherwise requires or provides, the general provisions set forth in this article, and the requirements concerning county budget matters prescribed by the Controller under Section 30200, govern the construction of this chapter.

29001. Except as otherwise defined in this section, the meaning of terms used in this chapter shall be as defined in the accounting standards and procedures for counties prescribed by the Controller pursuant to Section 30200.

As used in this chapter:

(a) "Administrative officer," means the chief administrative officer, county administrator, county executive, county manager, or other officials employed in the several counties under various titles whose duties and responsibilities are comparable to the officials named herein.

(b) "Auditor" means the county auditor or that officer whose responsibilities include those designated in Chapter 4 (commencing with Section 26900) of Division 2.

(c) "Board" means the board of supervisors of the county, or the same body acting as the governing board of a special district whose affairs and finances are under its supervision and control.

(d) "Controller" means the State Controller.

29002. This chapter shall apply to counties and to special districts whose affairs and finances are under the supervision and control of the board.

29003. This chapter does not apply to any moneys subject to disbursement, allocation, or apportionment by the county superintendent of schools pursuant to the Education Code or other statute, and which is not derived from appropriations made by the board.

29004. This chapter does not remove or in any way affect any tax limit fixed by law.

29005. The Controller shall promulgate such rules, regulations, and classifications as are deemed necessary and commensurate with the accounting procedures for counties prescribed pursuant to Section 30200 to secure standards of uniformity among the various counties and to carry out the provisions of this chapter. The rules, regulations and classifications shall be adopted in accordance with the provisions of Section 30200.

The Controller shall prescribe the forms required to be used in presenting the required information in the budget document after consultation with the Committee on County Accounting Procedures, which committee is provided for in Section 30201. Any county may add to the information required, or show it in more detail, providing that the financial information and the classifications or items required to be included in the budget are clearly and completely set

forth. Any change proposed by a county in the arrangement of the information required on the forms shall be subject to review and approval by the Controller.

29006. Dependent on the stage of development of the budget, the various forms, as prescribed by the Controller pursuant to Section 29005, shall provide for the presentation of data and information to include, as a minimum, estimated or actual amounts of the following items:

(a) Fund balances.

(1) Reserved or designated.

(2) Unreserved and undesignated.

(b) External financing sources, including property taxes, which shall be classified to set forth the data by source in accordance with the accounting procedures for counties as prescribed by the Controller pursuant to Section 30200.

For comparative purposes the amounts of external financing sources shall be shown as follows:

(1) On an actual basis for the second fiscal year preceding that to which the budget is to apply.

(2) On an actual basis, except for those sources that can only be estimated, for the first fiscal year preceding that to which the budget is to apply.

(3) On an estimated basis for the budget year, as submitted by those officials or persons responsible therefor, or as recommended by the auditor or administrative officer, as appropriate.

(4) On an estimated basis for the budget year, as approved, or as adopted, by the board.

(c) Financing uses for each budget unit, which shall be classified to set forth the data by the fund or funds from which financed, by the objects of expenditure, other financing uses, intrafund transfers, and residual equity transfers-out in accordance with the accounting procedures for counties and by such further classifications or requirements pertaining to county budget matters as prescribed by the Controller pursuant to Section 30200.

For comparative purposes the amounts of financing uses shall be shown as follows:

(1) On an actual basis for the second fiscal year preceding that to which the budget is to apply.

(2) On an actual basis, except for those uses that can only be estimated, for the first fiscal year preceding that to which the budget is to apply.

(3) On an estimated basis for the budget year, as submitted by those officials or persons responsible therefor, or as recommended by the administrative officer designated by the board.

(4) On an estimated basis for the budget year, as approved, or as adopted, by the board.

(d) The amounts proposed to be provided as appropriations for contingencies.

(e) The amounts proposed to be provided as provisions for

reserves and designations.

29007. There shall be a schedule in or supporting the budget document or separate ordinance or resolution, setting forth for each budget unit the following data for each position classification:

(a) Salary rate or range, as applicable.

(b) Number of positions currently approved.

(c) Number of positions requested or recommended by the administrative officer if designated by the board.

(d) Number of positions approved by the board.

29008. At a minimum, within the object of fixed assets, the estimates for:

(a) Land shall be shown in lump-sum amounts, except when included as a component of a project.

(b) Buildings and improvements shall be shown separately as to each project, except that minor improvement projects may be given in totals.

(c) Equipment shall be shown in a lump-sum amount by budget unit.

29009. In the final budget the budgetary requirements must equal the available financing.

SEC. 3. Section 29040 of the Government Code is amended to read:

29040. On or before June 10th of each year, as the board directs, each official or person in charge of any budget unit shall file with the auditor an itemized estimate of available financing, financing requirements, and any other matter required by the board. If the board directs, the estimates shall also be filed with the administrative officer.

SEC. 4. Section 29041 of the Government Code is repealed.

SEC. 5. Section 29044 of the Government Code is amended to read:

29044. The auditor shall furnish to the administrative officer or such other official as the board directs, any financial statements or data, the preparation of which properly falls within the duties of his or her office, together with his or her recommendations, if any, for any changes to the estimated financing sources referenced in Section 29040.

SEC. 6. Section 29061 of the Government Code is amended to read:

29061. The board may designate the administrative officer to review, hold hearings on, and recommend changes in the estimates before the tabulation is submitted to the board. Any differences between the recommendations and the estimates as submitted with which the official or person who submitted the estimates does not concur, shall be clearly indicated in the written recommendations or comments, or both.

SEC. 7. Section 29065 of the Government Code is amended to read:

29065. On or before August 10th of each year, as the board

directs, the proposed budget document, and the required statements if separate, shall be reproduced so that each member of the general public who desires may obtain one.

SEC. 8. Section 29065.5 is added to the Government Code, to read:

29065.5. At a date on or before August 10th an official designated by the board shall file with the clerk of the board a tabulation prepared in accordance with the board's direction.

When so filed, this tabulation shall constitute the proposed budget and shall be reproduced by the designated official so that each member of the general public may obtain one.

When this section is implemented, it shall be the responsibility of the auditor to review the format of the tabulation and, if compatible with the requirements of Sections 29005, 29006, 29007, and 29008, to concur with its use.

The alternative procedure prescribed by this section shall apply to a county only if the board adopts the procedure by resolution.

SEC. 9. Section 29066 of the Government Code is amended to read:

29066. On or before August 10th of each year, the board shall publish a notice once in a newspaper of general circulation throughout the county, stating that:

(a) The proposed budget documents are available to members of the general public.

(b) On a date stated in the notice, not less than 10 days after the budget documents are available, and at a time and place also stated in the notice, the board will meet for the purpose of conducting a public hearing on the proposed budget preparatory to making a final determination thereon, and,

(c) Any member of the general public may appear at the hearing and be heard regarding any item of the budget or for the inclusion of additional items.

SEC. 10. Section 29080 of the Government Code is amended to read:

29080. On or before August 20th of each year, as the board directs, it shall meet at the time and place designated in the published notice, at which meeting any member of the general public may appear and be heard regarding any item in the proposed budget or for the inclusion of additional items. Any official whose estimates have been or are proposed to be revised, reduced, or increased, or who desires to change his or her estimates, shall be given the opportunity to be heard thereon. All proposals for the increase or the inclusion of additional items shall be submitted in writing to the clerk of the board before the close of the public hearing.

SEC. 11. Section 29081 of the Government Code is amended to read:

29081. The hearing may be continued from day to day until concluded, but not to exceed a total of 10 calendar days, and shall be

concluded before the expiration of 10 calendar days if there are no requests or applications on file with the clerk of the board for further hearings prior to the close of the hearings.

SEC. 12. Section 29082 of the Government Code is amended to read:

29082. At the time the estimates for a budget unit are under consideration, the board may call in the official or person who submitted such estimates for examination concerning any matter relating to the budget. The person or official may also be called by the board if any member of the general public files with the clerk of the board a written request to question any of the estimates made by that official or person.

SEC. 13. Section 29082.5 of the Government Code is repealed.

SEC. 14. Section 29083 of the Government Code is amended to read:

29083. The auditor, or a deputy designated by him, shall attend the public hearing on the proposed budget, and shall furnish the board with any financial statements and data it requires.

It shall be the responsibility of the auditor to revise the proposed budget to reflect the actions of the board pertaining thereto in developing the final budget document.

SEC. 15. Section 29084 of the Government Code is amended to read:

29084. The budget may contain an appropriation or appropriations for contingencies which the board may establish by either or a combination of the following methods:

(a) Setting aside an amount within a fund not to exceed 15 percent of the total appropriations from the respective fund exclusive of the amount of the appropriation for contingencies.

(b) Setting aside an amount in a separate contingency fund or in the General Fund not to exceed 15 percent of the total appropriations contained in the budget, exclusive of all appropriations for bonded debt service and all appropriations for contingencies. The total appropriations on which the 15-percent limitation is based shall exclude the total appropriations on each fund for which an appropriation for contingencies is established pursuant to (a).

SEC. 16. Section 29085 of the Government Code is amended to read:

29085. The budget may contain reserves, including a general reserve, and designations in such amounts as the board deems sufficient.

SEC. 17. Section 29086 of the Government Code is amended to read:

29086. Except in cases of a legally declared emergency, as defined in Section 29127, the general reserve may only be established, canceled, increased or decreased at the time of adopting the budget as provided in Section 29088.

SEC. 18. Section 29087 of the Government Code is repealed.

SEC. 19. Section 29088 of the Government Code is amended to read:

29088. After the conclusion of the hearing, and not later than August 30th of each year, and after making any revisions of, deductions from, or increases or additions to, the proposed budget it deems advisable during or after the public hearing, the board shall by resolution adopt the budget as finally determined. Increases or additions shall not be made after the public hearing, unless the items were proposed in writing and filed with the clerk of the board before the close of the public hearing.

SEC. 20. Section 29089 of the Government Code is amended to read:

29089. The resolution of adoption of the budget of the county and of each special district shall specify:

(a) Appropriations by objects of expenditure within each budget unit.

(b) Other financing uses by budget unit.

(c) Intrafund transfers by budget unit.

(d) Residual equity transfers-out by fund.

(e) Appropriations for contingencies, by fund.

(f) Provisions for reserves and designations, by fund and purpose.

(g) The means of financing the budget requirements.

SEC. 21. Section 29091 of the Government Code is amended to read:

29091. The adoption of the budget may be accomplished by a resolution in which the adoption is effectuated by reference to the financing requirements in the budget as finally determined, provided that the minimum requirements set forth in Section 29089 are met in the budget document. If adopted by reference, the budget shall have the same effect and be subject to the same provisions of law as if the resolution of adoption had been accomplished by specific designation.

SEC. 22. Section 29092 of the Government Code is amended to read:

29092. The several amounts of proposed financing uses specified in the resolution as finally adopted are thereby appropriated for the various budget units of the county and for the special districts for the period to which the budget is intended to apply.

SEC. 23. Section 29093 of the Government Code is amended to read:

29093. A copy of the completed budget as finally determined and adopted shall be filed by the auditor in the office of the clerk of the board and the office of the Controller not later than November 1st of each year.

If the auditor, after receipt of written notice from the Controller, fails to transmit a copy of the budget within 20 days, he or she shall forfeit to the state one thousand dollars ($1,000) to be recovered in an action brought by the Attorney General, in the name of the Controller.

SEC. 24. Section 29100 of the Government Code is amended to read:

29100. On or before the first business day of September of each year, the board shall adopt by resolution the rates of taxes on the secured roll, not to exceed the 1-percent limitation specified in Article XIII A of the Constitution and Sections 93 and 100 of the Revenue and Taxation Code; for voter-approved indebtedness, the board shall adopt the rates on the secured roll by determining the percentage of full value of property on the secured roll legally subject to support the annual debt requirement. Each rate shall be such as will produce the amount determined as necessary to be raised by taxation on the secured roll after due allowance for delinquency, anticipated changes to the roll, disputed tax revenues anticipated to be impounded pursuant to Section 26906.1, amounts subject to Section 33000 and following of the Health and Safety Code, and other available financing sources.

SEC. 25. Section 29100.1 of the Government Code is repealed.

SEC. 26. Section 29100.6 of the Government Code is amended to read:

29100.6. On or before November 1 of each year each county auditor shall file with the Controller in such form as the Controller directs, a statement of the amounts of exempt values granted for the homeowners' property tax exemption under subdivision (k) of Section 3 and Section 25 of Article XIII of the Constitution for the county, each city and school district or portion thereof within the county, each special district or subdivision or zone thereof or portion thereof within the county, for which a tax levy is carried on the county assessment roll. The auditor shall therein compute and show the total amount of ad valorem tax loss to the county and the cities and districts resulting from the exemption and the statement shall claim such amount against the state for payment of reimbursement.

SEC. 27. Section 29100.7 of the Government Code is repealed.

SEC. 28. Section 29101 of the Government Code is amended to read:

29101. After adopting the rates, the board shall levy the taxes upon the taxable property of the county in specific sums in terms of the rates so adopted. Each rate is upon the full assessed valuation of property and only upon property which is legally subject to such tax.

SEC. 29. Section 29102 of the Government Code is amended to read:

29102. Unless otherwise provided by law, the authority and duties of the county board of supervisors with respect to adopting tax rates and levying of taxes prescribed in this article shall have application to school districts and to special districts, or zones or improvement districts thereof, whose affairs and finances are not under the supervision and control of the county board of supervisors but for which a tax levy is carried on the regular county assessment roll.

If the assessed value of the taxable property in a special district on the unsecured roll exceeds the assessed value of the taxable property

on the secured roll, the special district tax rate which is adopted by the board for the secured roll shall be adjusted to an amount which the board determines will meet the estimated annual revenue requirements of the district for both the current and the next succeeding year.

SEC. 30. Section 29103 of the Government Code is amended to read:

29103. It shall be the responsibility of the auditor to calculate the several tax rates for the board's action thereon.

SEC. 31. Section 29104 of the Government Code is amended to read:

29104. The board may adopt a rate ending in the next highest fraction of a percent for a fund, or for a group of funds having the same tax base.

Any cash collections resulting from this rate or from an excess resulting from any other cause shall not invalidate the levies.

SEC. 32. Section 29105 of the Government Code is repealed.

SEC. 33. Section 29106 of the Government Code is amended to read:

29106. In the resolution adopting tax rates, the entity or fund with its corresponding rate shall be designated in any manner sufficient to identify it.

SEC. 34. Section 29108 of the Government Code is repealed.

SEC. 35. Section 29109 of the Government Code is amended to read:

29109. On or before November 1st of each year, the auditor shall forward to the Controller, in such form as the Controller directs, a statement of the rates of taxation, the assessed valuation as shown on the current equalized assessment roll, the amount of taxes to be levied and allocated pursuant to the Revenue and Taxation Code.

If the auditor, after receipt of written notice from the Controller fails to transmit the statements within 20 days, he shall forfeit to the state, one thousand dollars ($1,000) to be recovered in an action brought by the Attorney General, in the name of the Controller.

SEC. 36. Section 29120 of the Government Code is amended to read:

29120. Except as otherwise provided by law, the board and every other county or special district official and person shall be limited in the incurring or paying of obligations to the amounts of the appropriations allowed by the budget as originally adopted or as thereafter revised by addition, cancellation or transfer.

SEC. 37. Section 29121 of the Government Code is amended to read:

29121. Except as otherwise provided by law, obligations incurred or paid in excess of the unencumbered balance of the amounts authorized in the budget appropriations are not a liability of the county or special district, but the official authorizing the obligation in an amount known by him to be in excess of the unencumbered balance of the appropriation against which it is drawn is liable

therefor personally and upon his official bond.

SEC. 38. Section 29122 of the Government Code is amended to read:

29122. The board shall approve no claim and the auditor shall issue no warrant for any obligation in excess of that authorized therefor in the budget appropriation, except upon an order of a court of competent jurisdiction, for an emergency, or as otherwise provided by law. Provided, further, with respect to a newly created special district or county service area, whenever it is desired to commence operations prior to the time for adoption of a budget for such district or service area, the amount of any money advanced or transferred to such district or service area under authority of law may be made available to meet the financing requirements of the district or service area under the provisions of Section 29130.

SEC. 39. Section 29123 of the Government Code is repealed.

SEC. 40. Section 29124 of the Government Code is amended to read:

29124. If at the beginning of any fiscal year, the appropriations applicable to that year have not been finally determined and adopted, the auditor shall approve payments for the support of the various budget units in accordance with the following authorizations:

(a) The several amounts set forth in the proposed budget for the objects and purposes therein specified, except obligations for fixed assets and for new permanent employee positions unless specifically approved by the board, are deemed appropriated until the adoption of the final budget. For the purposes of this subdivision, the words "new permanent employee positions" do not include any employee position created in lieu of an employee position which is abolished.

(b) If the proposed budget has not been approved by the board, the amounts deemed appropriated shall be based on the budget of the preceding year, excluding fixed assets and for new permanent employee positions unless specifically approved by the board.

SEC. 40.5. Section 29125 of the Government Code is amended to read:

29125. Transfers and revisions may be made with respect to the appropriations as specified in the resolution of adoption of the budget, except with respect to transfers from the appropriations for contingencies, by an action formally adopted by the board at a regular or special meeting and entered in its minutes. The board may designate a county official to approve transfers and revisions of appropriations within a budget unit.

SEC. 41. Section 29130 of the Government Code is repealed.

SEC. 42. Section 29130 is added to the Government Code, to read:

29130. At any regularly scheduled or properly noticed special meeting, the board by a four-fifths vote may make available for appropriation any of the following:

(a) Balances in appropriations for contingencies, including accretions from cancellations of appropriations.

(b) Designations and reserves (excluding the general reserve,

balance sheet reserves, and reserve for encumbrances) no longer required for the purpose for which intended.

(c) Amounts which are either in excess of anticipated amounts or not specifically set forth in the budget derived from any actual or anticipated increases in available financing. The auditor may review and make recommendations regarding these amounts prior to the board action.

SEC. 43. Section 29130.3 of the Government Code is repealed.

SEC. 44. Section 29130.5 of the Government Code is repealed.

SEC. 45. Section 29131 of the Government Code is amended to read:

29131. The auditor shall submit to the board and such other officials as the board may designate a statement showing such information with respect to the condition of each separate budget appropriation and to the condition of the estimated available financing, as the board requires.

SEC. 46. Section 29140 of the Government Code is amended to read:

29140. The budget document in which the proposed and the final budget, respectively, of the county are presented shall include a special statement showing the status of the financing uses from bond funds. The statement shall set forth the total estimated cost, and the total actual expenditures to date of each project, appropriately identified, and the fund from which financed.

SEC. 47. Section 29141 of the Government Code is amended to read:

29141. The budget document in which the proposed and final budget, respectively, of the county are presented shall include, a special schedule showing the managerial budget of each service activity financed by a proprietary fund established pursuant to the provisions of Sections 25260 and 25261. The schedule shall set forth expected operations of the activity in such detail for revenues and expenses as will adequately display the nature and the approximate size of its operations. Comparative data as prescribed in Section 29021 shall be provided.

SEC. 48. Section 29141.1 of the Government Code is repealed.

SEC. 49. Section 29142 of the Government Code is amended to read:

29142. Notwithstanding the provisions of any other statute or code providing to the contrary, when taxes or assessments are collected by the county for any special district, or zone or improvement district thereof, but excluding a school district, the board of supervisors may provide for a collection fee for such services which when collected shall belong to the county and shall be deposited to the credit of the general fund, and shall cover the expense and compensation of such officials of the county in the collection of such taxes and of the interest or penalties thereon, subject to the following:

(a) For taxes covering debt service requirements on any bond or

bonds authorized and issued by any such district, the tax rate fixed to raise such amounts may be fixed by the board of supervisors to include also a percentage of such amounts up to one-fourth of 1 percent thereof.

(b) For taxes covering all purposes of such districts, other than debt service requirements on bonds, the amount of the collection fees, if any, to be charged by the county shall be fixed by agreement between the board of supervisors and the governing board of such district and shall not exceed one-fourth of 1 percent of all money collected.

SEC. 50. Section 29144 is added to the Government Code, to read:

29144. All commitments covered by the reserve for encumbrances at fiscal yearend are appropriated for the succeeding fiscal year.

SEC. 51. Section 30200 of the Government Code is amended to read:

30200. Under this division, the Controller shall prescribe for counties uniform accounting procedures conforming to generally accepted accounting principles. The procedures shall be adopted under the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 and shall be published in the California Administrative Code either in their entirety or by reference. The Controller shall prescribe such procedures after consultation with and approval by the Committee on County Accounting Procedures. Approval of such procedures shall be by a majority vote of the members of the committee. The vote may be conducted by mail at the discretion of the chairperson of the committee, provided however, that should one or more members of the committee request a meeting for the purpose of voting the chairperson shall call a meeting of the committee as provided in Section 30201.

SEC. 52. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution 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 752

An act to amend Section 5102 of, to add Section 5006 to, and to repeal Section 9100 of, the Vehicle Code, relating to vehicles.

[Approved by Governor September 18, 1985 Filed with Secretary of State September 18, 1985]

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

SECTION 1. Section 5006 is added to the Vehicle Code, to read:

5006. (a) The department may issue distinctive license plates for motor vehicles owned or leased by an honorary consular officer or a similar official when the department is otherwise satisfied that the issuance of the license plates is in order. An honorary consular officer or similar official is a citizen of the United States, or a permanent resident of this country, who is appointed by a foreign country for the purpose of facilitating and promoting the interest of that country.

(b) The motor vehicles for which the license plates are issued shall be subject to all regular license and registration fees. In addition to the regular fees for an original registration or renewal of registration, the additional fees specified in Sections 5106 and 5108, as applicable, shall be paid, and shall be deposited in the Motor Vehicle Account in the State Transportation Fund.

SEC. 2. Section 5102 of the Vehicle Code is amended to read:

5102. The environmental license plates shall be the same color and design as regular passenger vehicle, commercial vehicle, motorcycle, or trailer license plates, and shall consist of any combination of numbers or letters, not exceeding seven positions and not less than two positions, if there are no conflicts with existing passenger, commercial, trailer, motorcycle, or special license plates series or with Section 4851.

SEC. 3. Section 9100 of the Vehicle Code is repealed.

CHAPTER 753

An act to amend Section 9359.12 of the Government Code, relating to public boards and commissions, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 18, 1985 Filed with Secretary of State September 18, 1985]

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

SECTION 1. Section 9359.12 of the Government Code is amended to read:

9359.12. (a) Any contrary provisions of Section 9359.1 or Section 9360.9 notwithstanding, and subject to the further limitations in subdivision (b), the retirement allowance of any member of the Legislators' Retirement System who serves as a legislator during or after the term commencing in 1967 shall be the sum of: (1) the amount determined by application of the formula provided by Section 9359.1 to the first five hundred dollars ($500) per month of salary payable to the legislator at the time of his or her retirement, plus (2) an amount equal to 3 percent of the amount of such salary

in excess of five hundred dollars ($500) per month multiplied by the number of years credited the member, or two-thirds of the amount of such salary payable to the legislator at the time of his or her retirement, whichever is the lesser, plus, in the case of members credited with service prior to the term commencing in 1967, an amount equal to a cost-of-living increase computed under Section 9360.9 as of January 1, 1967, on that portion of the allowance based on five hundred dollars ($500) per month, and said total to be further adjusted to reflect cost-of-living increases occurring after the member's retirement as determined under Section 9360.10.

(b) Except as provided in subdivision (c), during such time as he or she serves in any salaried public office any retired member of the Legislators' Retirement System who served as a legislator during or after the term commencing in 1967 shall receive a retirement allowance computed by application of the formula set forth in Section 9359.1 to a salary of five hundred dollars ($500), and any increase in salary above such amount shall, for such purpose, be disregarded.

(c) If a retired member who is otherwise subject to subdivision (b) is, while serving as a member of a public board or commission, entitled to receive for that service per diem compensation and expenses or compensation and expenses, he or she may, notwithstanding any other provision of the law, waive the compensation. If the compensation is waived, the member shall not be subject to subdivision (b). Nothing in this section shall be construed as requiring the waiver of expenses or per diem compensation which is in lieu of expenses.

SEC. 2. The amendment of Section 9359.12 of the Government Code made by Section 1 of this act does not constitute a change in, but is declaratory of, the existing law.

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 secure the expertise of former Members of the Legislature to aid in the solution of California problems, it is necessary that this act take effect immediately.

CHAPTER 754

An act to add Chapter 5b (commencing with Section 853.1) to Title 3 of Part 2 of the Penal Code, relating to crimes.

[Approved by Governor September 18, 1985. Filed with Secretary of State September 18, 1985.]

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

SECTION 1. Chapter 5b (commencing with Section 853.1) is added to Title 3 of Part 2 of the Penal Code, to read:

CHAPTER 5b. COLORADO RIVER CRIME ENFORCEMENT COMPACT

853.1. (a) Pursuant to the authority vested in this state by Section 112 of Title 4 of the United States Code, the Legislature of the State of California hereby ratifies the Colorado River Crime Enforcement Compact as set forth in Section 853.2.

(b) The purpose of this compact is to promote the interests of justice with regard to crimes committed on the Colorado River by avoiding jurisdictional issues as to whether a criminal act sought to be prosecuted was committed on one side or the other of the exact boundary of the channel, and thus avoiding the risk that an offender may go free on technical grounds because neither state is able to establish that the offense was committed within its boundaries.

(c) This compact shall become operative when ratified by law in the State of Arizona; and shall remain in full force and effect so long as the provisions of this compact, as ratified by the State of Arizona, remain substantively the same as the provisions of this compact, as ratified by this section. This compact may be amended in the same manner as is required for it to be ratified to become operative.

853.2. (a) All courts and officers now or hereafter having and exercising jurisdiction in any county which is now or may hereafter be formed in any part of this state bordering upon the Colorado River, or any lake formed by, or which is a part of, the Colorado River, shall have and exercise jurisdiction in all criminal cases upon those waters concurrently with the courts of and officers of the State of Arizona, so far and to the extent that any of these bodies of water form a common boundary between this state and the State of Arizona.

(b) This section applies only to those crimes which are established in common between the States of Arizona and California; and an acquittal or conviction and sentence by one state shall bar a prosecution for the same act or omission by the other.

(c) This compact shall not be construed to bar the enforcement of the penal laws of either state not established in common with the other, provided that the act or omission proscribed occurs on that state's side of the river channel boundary.

SEC. 2. No reimbursement is required by this act pursuant to 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 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 755

An act to amend Sections 25166, 25167, and 25168.5 of, and to add Section 25166.5 to, the Health and Safety Code, relating to hazardous waste, and making an appropriation therefor.

[Approved by Governor September 18, 1985 Filed with Secretary of State September 18, 1985]

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

SECTION 1. Section 25166 of the Health and Safety Code is amended to read:

25166. (a) A registration fee of two hundred dollars ($200) shall be paid to the department by each person who carries on, or engages in, the business of hauling hazardous waste or who handles hazardous waste as a part of, or incidental to, any business, for a calendar year or any portion thereof.

(b) A person whose registration has expired for a period of more than 90 days shall be considered an applicant for an original registration when the person applies for registration.

SEC. 2. Section 25166.5 is added to the Health and Safety Code, to read:

25166.5. Notwithstanding any other provision of law, the department may by regulation provide for the issuance and renewal of the registration on a two-year basis.

The department may by regulation set the fee for the two-year registration not to exceed twice the annual fee for issuance or renewal prescribed by Section 25166.

SEC. 3. Section 25167 of the Health and Safety Code is amended to read:

25167. The fees prescribed in Section 25166 shall be payable at the same time that the application for registration or renewal of registration is submitted to the department, and deposited in the Hazardous Waste Control Account in the General Fund for administering this chapter.

SEC. 4. Section 25168.5 of the Health and Safety Code is amended to read:

25168.5. The department shall collect the inspection fee at the same time that the application for the vehicle or container inspection is submitted to the department.

CHAPTER 756

An act to amend Sections 443.31, 443.32, and 443.34 of the Health and Safety Code, relating to health.

[Approved by Governor September 18, 1985 Filed with Secretary of State September 18, 1985]

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

SECTION 1. Section 443.31 of the Health and Safety Code is amended to read:

443.31. Every organization which operates, conducts, or maintains a health facility and the officers thereof, shall make and file with the office, at the times as the office shall require, all of the following reports on forms specified by the office which shall be in accord where applicable with the systems of accounting and uniform reporting required by this part:

(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 fiscal period, and a statement of ancillary utilization and patient census.

(c) A statement detailing patient revenue by payer and revenue center except that hospitals authorized to report as a group pursuant to subdivision (d) of Section 443.34 are not required to report revenue by revenue center.

(d) A statement detailing changes in financial position and capital financing status, including, but not limited to, ongoing and new capital expenditures and depreciation.

(e) A statement reporting the information required in subdivisions (a), (b), (c), and (d) for each separately licensed health facility operated, conducted, or maintained by the reporting organization, except those hospitals authorized to report as a group pursuant to subdivision (d) of Section 443.34.

(f) The office shall consult with the County Hospital Committee of the California Hospital Association, the County Supervisors Association of California, and the California Association of Public Hospitals to improve the accuracy of indigent care revenue reporting and shall present legislative or regulatory recommendations for such improvements by March 30, 1985.

(g) A Hospital Discharge Abstract Data Record which includes 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. 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.

SEC. 2. Section 443.31 of the Health and Safety Code is amended to read:

443.31. Every organization which operates, conducts, or maintains a health facility and the officers thereof, shall make and file with the office, at the times as the office shall require, all of the following reports on forms specified by the office which shall be in accord where applicable with the systems of accounting and uniform reporting required by this part, except the reports required pursuant to subdivision (g) shall be limited to hospitals:

(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 fiscal period, and a statement of ancillary utilization and patient census.

(c) A statement detailing patient revenue by payer, including, but not limited to, Medicare, Medi-Cal, and other payers, and revenue center except that hospitals authorized to report as a group pursuant to subdivision (d) of Section 443.34 are not required to report revenue by revenue center.

(d) A statement detailing changes in financial position and capital financing status, including, but not limited to, ongoing and new capital expenditures and depreciation.

(e) A statement reporting the information required in subdivisions (a), (b), (c), and (d) for each separately licensed health facility operated, conducted, or maintained by the reporting organization, except those hospitals authorized to report as a group pursuant to subdivision (d) of Section 443.34.

(f) The office shall consult with the County Hospital Committee of the California Hospital Association, the County Supervisors Association of California, and the California Association of Public Hospitals to improve the accuracy of indigent care revenue reporting and shall present legislative or regulatory recommendations for such improvements by March 30, 1985.

(g) A Hospital Discharge Abstract Data Record which includes 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 semiannually file the Hospital Discharge Abstract Data Record not later than six months after the end of each semiannual period, commencing six months after January 1, 1986. 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.

SEC. 3. Section 443.32 of the Health and Safety Code is amended to read:

443.32. Commencing with the first calendar quarter of 1986, summary financial and utilization data previously reported to the Health Facilities Commission pursuant to Section 441.185 shall be reported to the office 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 Accounting and Reporting Manual for California Hospitals and shall include all of 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 revenue, including bad debts, charity care, and Medicare and Medi-Cal contractual allowances.
(k) Total capital expenditures.
(*l*) Total net fixed assets.
(m) Total number of inpatient days, outpatient visits, and

discharges by payer source, including Medi-Cal, Medicare, and other sources.

(n) Total net inpatient revenues and net outpatient revenues by payer source such as government payers, and all other payers.

Hospitals reporting pursuant to subdivision (d) of Section 443.34 may provide the items in subdivisions (g), (h), (i), (j), and (n) of this section on a group basis, as described in subdivision (d) of Section 443.34.

The office shall make available at cost, to all interested parties, a hard copy of any hospital report made pursuant to this section and in addition to hard copies, shall make available at cost, a computer tape of all reports made pursuant to this section within 105 days of the end of every calendar quarter.

SEC. 4. Section 443.32 of the Health and Safety Code is amended to read:

443.32. Commencing with the first calendar quarter of 1986, summary financial and utilization data previously reported to the Health Facilities Commission pursuant to Section 441.185 shall be reported to the office 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 Accounting and Reporting Manual for California Hospitals and shall include all of 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 revenue, including bad debts, charity care, and Medicare and Medi-Cal contractual allowances.

(k) Total capital expenditures.

(*l*) Total net fixed assets.

(m) Total number of inpatient days, outpatient visits, and discharges by payer source, including Medi-Cal, Medicare, and other sources.

(n) Total net patient revenues by payer source, including, but not limited to, Medicare, Medi-Cal, and other payers.

Hospitals reporting pursuant to subdivision (d) of Section 443.34 may provide the items in subdivisions (g), (h), (i), (j), and (n) of this section on a group basis, as described in subdivision (d) of Section 443.34.

The office shall make available at cost, to all interested parties, a

hard copy of any hospital report made pursuant to this section and in addition to hard copies, shall make available at cost, a computer tape of all reports made pursuant to this section within 105 days of the end of every calendar quarter.

SEC. 5. Section 443.34 of the Health and Safety Code is amended to read:

443.34. (a) On and after January 1, 1986, those systems of health facility accounting and auditing formerly approved by the California Health Facilities Commission shall remain in full force and effect for use by health facilities but shall be maintained by the office with the advice of the Health Policy and Data Advisory Commission.

(b) The office, with the advice of the commission, shall allow and provide, in accordance with appropriate regulations, for modifications in the accounting and reporting systems for use by health facilities in meeting the requirements of this part if the modifications are necessary to do any of 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).

(c) Modifications to discharge data reporting requirements. The office, with the advice of the commission, shall allow and provide, in accordance with appropriate regulations, for modifications to discharge data reporting format and frequency requirements if these modifications will not impair the office's ability to process the data or interfere with the purposes of this part. This modification authority shall not be construed to permit the office to administratively require the reporting of discharge data items not specified in Section 443.31.

(d) Reporting provisions for health facilities. The office, with the advice of 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. These 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 these 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 income and expense statement.

Hospitals authorized to report as a group under this subdivision may elect to file cost data reports required under the regulations of the Social Security Administration in its administration of Title XVIII of the federal Social Security Act in lieu of any comparable cost

reports required under Section 443.31. However, to the extent that cost data is required from other hospitals, the cost data shall be reported for each individual institution.

The office, with the advice of the commission, shall adopt comparable modifications to the financial reporting requirements of this part for county hospital systems consistent with the purposes of this part.

SEC. 6. (a) Section 2 of this bill incorporates amendments to Section 443.31 of the Health and Safety Code proposed by both this bill and AB 2011. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1986, (2) each bill amends Section 443.31 of the Health and Safety Code, and (3) this bill is enacted after AB 2011, in which case Section 1 of this bill shall not become operative.

(b) Section 4 of this bill incorporates amendments to Section 443.32 of the Health and Safety Code proposed by both this bill and AB 2011. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1986, (2) each bill amends Section 443.32 of the Health and Safety Code, and (3) this bill is enacted after AB 2011, in which case Section 3 of this bill shall not become operative.

SEC. 7. No reimbursement shall be made from the State Mandates Claims Fund pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code for costs mandated by the state pursuant to this act. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Part 7 (commencing with Section 17500) and any other provisions of law.

CHAPTER 757

An act to amend Section 5676 of the Welfare and Institutions Code, relating to mental health.

[Approved by Governor September 18, 1985 Filed with Secretary of State September 18, 1985]

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

SECTION 1. Section 5676 of the Welfare and Institutions Code is amended to read:

5676. The department shall define the target population with high hospital readmissions to be served by the case management system and shall also develop guidelines to assist the county in implementing the requirements for a case management system specified in Section 5677. These guidelines shall provide criteria for the clinical assessment of placement needs, including medical needs, of clients to be placed in state hospitals or local mental health

treatment facilities, and for county monitoring of these needs at regular intervals. The guidelines shall allow each county the flexibility to design a system specific to the nature of the community and the needs of clients.

CHAPTER 758

An act to amend Section 4037 of, to amend and renumber the heading of Article 5 (commencing with Section 4037) of Chapter 7 of Part 1 of Division 5 of, to repeal and add Sections 4017, 4031, 4032, 4033, 4034, and 4035 of, to add Article 5 (commencing with Section 4037.5) to Chapter 7 of Part 1 of Division 5 of, and to repeal Sections 4018, 4020, and 4023 of, the Health and Safety Code, relating to water and water systems.

[Approved by Governor September 18, 1985 Filed with Secretary of State September 18, 1985]

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

SECTION 1. Section 4017 of the Health and Safety Code is repealed.

SEC. 2. Section 4017 is added to the Health and Safety Code, to read:

4017. Any person who operates a public water system shall do all of the following:

(a) Comply with primary and secondary drinking water standards.

(b) Ensure that the system will not be subject to backflow under normal operating conditions.

(c) Provide a reliable and adequate supply of pure, wholesome, healthful, and potable water.

SEC. 3. Section 4018 of the Health and Safety Code is repealed.

SEC. 4. Section 4020 of the Health and Safety Code is repealed.

SEC. 5. Section 4023 of the Health and Safety Code is repealed.

SEC. 6. Section 4031 of the Health and Safety Code is repealed.

SEC. 7. Section 4031 is added to the Health and Safety Code, to read:

4031. (a) The department, after a hearing noticed and conducted as provided in Section 4014, may suspend or revoke any permit issued pursuant to this chapter if the department determines pursuant to the hearing that the permittee is not complying with the permit, this chapter, or any regulation, standard, or order issued or adopted thereunder, or that the permittee has made a false statement or representation on any application, record, or report maintained or submitted for purposes of compliance with this chapter.

(b) The permittee may file with the superior court a petition for

a writ of mandate for review of any decision of the department made pursuant to subdivision (a). Failure to file a petition shall not preclude a party from challenging the reasonableness or validity of a decision of the department in any judicial proceedings to enforce the decision or from pursuing any remedy authorized by this chapter.

(c) The department may temporarily suspend any permit issued pursuant to this chapter prior to any hearing when the action is necessary to prevent an imminent or substantial danger to health. The director shall notify the permittee of the temporary suspension and the effective date thereof and, at the same time, notify the permittee that a hearing has been scheduled. The hearing shall be held as soon as possible, but not later than 15 days after the effective date of the temporary suspension. The temporary suspension shall remain in effect until the hearing is completed and the director has made a final determination on the merits, which in any event shall be made within 15 days after the completion of the hearing. If the determination is not transmitted within 15 days after the hearing is completed, the temporary suspension shall be of no further effect.

SEC. 8. Section 4032 of the Health and Safety Code is repealed.

SEC. 9. Section 4032 is added to the Health and Safety Code, to read:

4032. (a) If the department determines that a public water system is in violation of this chapter or any regulation, permit, standard, or order issued or adopted thereunder, the department may issue a citation to the permittee. The citation shall be served upon the permittee personally or by registered mail.

(b) Each citation shall be in writing and shall describe with particularity the nature of the violation, including a reference to the statutory provision, standard, order, or regulation alleged to have been violated.

(c) For continuing violations, the citation shall fix the earliest feasible time for elimination or correction of the condition constituting the violation where appropriate. If the permittee fails to correct a violation within the time specified in the citation, the department may assess a civil penalty as specified in subdivision (e).

(d) For a noncontinuing violation of primary drinking standards, other than turbidity, the department may assess in the citation a civil penalty as specified in subdivision (e).

(e) Citations issued pursuant to this section shall be classified according to the nature of the violation or the failure to comply. The department shall specify the classification in the citation and may assess civil penalties for each classification as follows:

(1) For violation of a primary drinking standard, other than turbidity, an amount not to exceed one thousand dollars ($1,000) for each day that the violation occurred for noncontinuing violations or for each day that the violation continues beyond the date specified for correction in the citation.

(2) For failure to comply with any citation issued for failure of the

primary drinking water standard for turbidity or for violation of a secondary drinking water standard which the director determines may have a direct or immediate relationship to the welfare of the users, an amount not to exceed two hundred fifty dollars ($250) for each day that the violation continues beyond the date specified for correction in the citation.

(3) For failure to comply with any citation issued for failure of any department regulation or order, other than a primary or secondary drinking water standard, an amount not to exceed two hundred dollars ($200) per day for each day the violation continues beyond the date specified for correction in the citation.

SEC. 10. Section 4033 of the Health and Safety Code is repealed.

SEC. 11. Section 4033 is added to the Health and Safety Code, to read:

4033. (a) Whenever the department determines that any person has violated or is violating this chapter, or any permit, regulation, or standard issued or adopted pursuant to this chapter, the director may issue an order doing any of the following:

(1) Directing compliance forthwith.

(2) Directing compliance in accordance with a time schedule set by the department.

(3) Directing that appropriate preventive action be taken in the case of a threatened violation.

(b) An order issued pursuant to this section may include, but shall not be limited to, any or all of the following requirements:

(1) That the existing plant, works, or system be repaired, altered, or added to.

(2) That purification or treatment works be installed.

(3) That the source of the water supply be changed.

(4) That no additional service connection be made to the system.

(5) That the water supply, the plant, or the system be monitored.

(6) That a report on the condition and operation of the plant, works, system, or water supply be submitted to the department.

SEC. 12. Section 4034 of the Health and Safety Code is repealed.

SEC. 13. Section 4034 is added to the Health and Safety Code, to read:

4034. (a) Any person who operates a public water system without having an unrevoked permit to do so, may be enjoined from so doing by any court of competent jurisdiction at the suit of the department.

(b) When the department determines that any person has engaged in or is engaged in any act or practice which constitutes a violation of this chapter, or any regulation, permit, standard, or order issued or adopted thereunder, the department may bring an action in the superior court for an order enjoining such practices or for an order directing compliance.

(c) Upon a showing by the department of any violation set forth in subsection (b); the superior court shall enjoin the practices and may do any of the following:

(1) Enforce a reasonable plan of compliance, including the appointment of a competent person, to be approved by the department, and paid by the operator of the public water system, who shall take charge of and operate the system so as to secure compliance.

(2) Enjoin further service connections to the public water system.

(3) Afford any further relief which may be required to insure compliance with this chapter.

SEC. 14. Section 4035 of the Health and Safety Code is repealed.

SEC. 15. Section 4035 is added to the Health and Safety Code, to read:

4035. Whenever the department determines that any public water system is unable or unwilling to adequately serve its users, has been actually or effectively abandoned by its owners, or is unresponsive to the rules or orders of the department, the department may petition the superior court for the county within which the system has its principal office or place of business for the appointment of a receiver to assume possession of its property and to operate its system upon such terms and conditions as the court shall prescribe. The court may require, as a condition to the appointment of the receiver, that a sufficient bond be given by the receiver and be conditioned upon compliance with the orders of the court and the department, and the protection of all property rights involved. The court may provide, as a condition of its order, that the receiver appointed pursuant to the order shall not be held personally liable for any good faith, reasonable effort to assume possession of, and to operate, the system in compliance with the order.

SEC. 16. The heading of Article 5 (commencing with Section 4037) of Chapter 7 of Part 1 of Division 5 of the Health and Safety Code is amended and renumbered to read:

Article 4.5. Judicial Review

SEC. 17. Section 4037 of the Health and Safety Code is amended to read:

4037. (a) Within 30 days after service of a copy of an order issued by the department, any aggrieved party may file with the superior court a petition for a writ of mandate for review thereof. Failure to file an action shall not preclude a party from challenging the reasonableness and validity of a decision or order of the department in any judicial proceedings brought to enforce the decision or order or for any civil or criminal remedy authorized by this chapter.

(b) The evidence before the court shall consist of all relevant evidence which, in the judgment of the court, should be considered to effectuate and implement the provisions of this chapter. In every case, the court shall exercise its independent judgment on the evidence.

(c) Except as otherwise provided in this section, the provisions of subdivisions (e) and (f) of Section 1094.5 of the Code of Civil

Procedure shall govern proceedings pursuant to this section.

SEC. 18. Article 5 (commencing with Section 4037.5) is added to Chapter 7 of Part 1 of Division 5 of the Health and Safety Code, to read:

Article 5. Crimes and Penalties

4037.5. (a) Any person who knowingly makes any false statement or representation in any application, record, report, or other document submitted, maintained, or used for purposes of compliance with this chapter, may be liable, as determined by the court, for a civil penalty not to exceed five thousand dollars ($5,000) for each separate violation or, for continuing violations, for each day that violation continues.

(b) Any person who violates a citation schedule of compliance for a primary drinking water standard, other than turbidity, or any order regarding a primary drinking water standard other than turbidity, or the requirement that a reliable and adequate supply of pure, wholesome, healthful, and potable water be provided may be liable, as determined by the court, for a civil penalty not to exceed twenty-five thousand dollars ($25,000) for each separate violation or, for continuing violations, for each day that violation continues.

(c) Any person who violates any order, other than one specified in subdivision (b), issued pursuant to this chapter may be liable, as determined by the court, for a civil penalty not to exceed five thousand dollars ($5,000) for each separate violation or, for continuing violations, for each day that violation continues.

(d) Any person who operates a public water system without a permit issued by the department pursuant to this chapter may be liable, as determined by the court, for a civil penalty not to exceed twenty-five thousand dollars ($25,000) for each separate violation or, for continuing violations, for each day that violation continues.

(e) Each civil penalty imposed for any separate violation pursuant to this section shall be separate and in addition to any other civil penalty imposed pursuant to this section or any other provision of law.

4038. (a) Any person who knowingly does any of the following acts may, upon conviction, be punished by a fine of not more than twenty-five thousand dollars ($25,000) for each day of violation, or by imprisonment in the county jail not to exceed one year, or by both the fine and imprisonment:

(1) Makes any false statement or representation in any application, record, report, or other document submitted, maintained, or used for the purposes of compliance with this chapter.

(2) Has in his or her possession any record required to be maintained pursuant to this chapter which has been altered or concealed.

(3) Destroys, alters, or conceals any record required to be maintained pursuant to this chapter.

(4) Withholds information regarding an imminent and substantial danger to the public health or safety when the information has been requested by the department in writing and is required to carry out the department's responsibilities pursuant to this chapter in response to an imminent and substantial danger.

(5) Violates an order issued by the department pursuant to this chapter which has a substantial probability of presenting an imminent danger to the health of persons.

(6) Operates a public water system without a permit issued by the department pursuant to this chapter.

(b) If the conviction under subdivision (a) is for a violation committed after a first conviction of the person under this section, the person may be punished by imprisonment in the state prison for up to 24 months, or in the county jail for not to exceed one year, or by a fine of not less than two thousand dollars ($2,000) or more than fifty thousand dollars ($50,000) per day of violation, or by both the fine and imprisonment.

4039. (a) In order to carry out the purposes of this chapter, any duly authorized representative of the department may, at any reasonable hour of the day, do any of the following:

(1) Enter and inspect any public water system or any place where the public water system records are stored, kept, or maintained.

(2) Inspect and copy any records, reports, test results, or other information required to carry out this chapter.

(3) Set up and maintain monitoring equipment for purposes of assessing compliance with this chapter.

(4) Obtain samples of the water supply.

(5) Photograph any portion of the system, any activity, or any sample taken.

(b) The department shall provide an opportunity for a representative of the public water system to accompany the representative of the department during any inspection of the water system.

(c) It shall be a misdemeanor for any person to prevent, interfere with, or attempt to impede in any way any duly authorized representative of the department from undertaking the activities authorized by subdivision (a).

4039.5. The remedies provided by this chapter are cumulative and shall not be construed as restricting any remedy, provisional or otherwise, provided by law for the benefit of any party, and no judgment under this chapter shall preclude any party from obtaining additional relief based upon the same facts.

SEC. 19. No reimbursement is required by this act pursuant to 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 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. 20. No reimbursement shall be made from the State

Mandates Claims Fund pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code for costs mandated by the state pursuant to this act. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Part 7 (commencing with Section 17500) and any other provisions of law.

CHAPTER 759

An act to amend Sections 39619.5 and 39619.55 of the Education Code, relating to schools.

[Approved by Governor September 18, 1985. Filed with Secretary of State September 18, 1985]

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

SECTION 1. Section 39619.5 of the Education Code is amended to read:

39619.5. (a) Notwithstanding the limitations of Section 39619, the State Allocation Board may each year reserve an amount not to exceed 10 percent of the funds transferred from any source to the State School Deferred Maintenance Fund for apportionments to school districts, in instances of extreme hardship. The apportionment shall be in addition to the apportionments made pursuant to Section 39619. Not less than one-half of all funds made available by this section shall be apportioned to school districts that had an average daily attendance, excluding summer session attendance, of less than 2,501 during the prior fiscal year.

An extreme hardship shall exist in a school district when the State Allocation Board determines the existence of all of the following:

(1) That the district has deposited in its deferred maintenance fund an amount equal to at least 0.5 percent of the total general funds and adult education funds budgeted by the district for the fiscal year, exclusive of any amounts budgeted for capital outlay or debt service.

(2) That the district has a critical project on its five-year plan which if not completed in one year could result in serious damage to the remainder of the facility or would result in a serious hazard to the health and safety of the pupils attending the facility.

(3) That the total funds deposited by the district and the state pursuant to Section 39619 are insufficient to complete the project.

(b) As a result of the determination made in subdivision (a), the State Allocation Board may increase the apportionment to a school district by the amount it determines necessary to complete the critical project.

SEC. 2. Section 39619.55 of the Education Code is amended to read:

39619.55. As a result of the determination made in Section

39619.5, the State Allocation Board may do any of the following:

(a) Increase the apportionment to an eligible school district by the amount it determines necessary to complete the critical project, and require a contribution by the district.

(b) Waive repayment by the district, in whole or in part.

(c) Reduce state apportionments pursuant to Section 39619 in future years to offset the increased apportionment.

The State Allocation Board shall develop and adopt regulations for the application of subdivisions (a), (b), and (c). The regulations may give consideration to a school district's financial resources, ongoing deferred maintenance needs, and the nature of the project for which the hardship apportionment is requested.

The waiver authorized in subdivision (b) may be applied by the board to any repayment otherwise required by law, regardless of apportionment date.

CHAPTER 760

An act to add Section 1006.1 to the Elections Code, relating to absent voter ballots.

[Approved by Governor September 18, 1985 Filed with Secretary of State September 18, 1985]

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

SECTION 1. Section 1006.1 is added to the Elections Code, to read:

1006.1. The Secretary of State shall prepare and distribute to appropriate elections officials a uniform application format for an absent voter's ballot which conforms to the requirements of this chapter. This format shall be followed by all individuals, organizations, and groups who distribute applications for an absent voter's ballot. The uniform format need not be utilized by elections officials in preparing an absent voter's ballot application to be included with the sample ballot.

CHAPTER 761

An act to amend Section 4028 of the Health and Safety Code, relating to water.

[Approved by Governor September 18, 1985 Filed with Secretary of State September 18, 1985.]

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

SECTION 1. (a) The Legislature finds and declares that notification to all water users of contaminants in their drinking water is necessary to achieve the objective that all water delivered by public water systems is pure, wholesome, and potable.

(b) It is, and has been, the intent of the Legislature that any required notification as to the condition of water being supplied to the public reach all users of that water supply and that the notification shall not exclude such groups as tenants, teachers, school children, or the parents of minor children.

(c) There have been incidents, such as the Norris School in Kern County, where teachers, children, and parents were not notified by the water supplier of the health risks associated with continued consumption of the water supply.

(d) Likewise, the residents of the Shady Lakes Mobilehome Park in Fresno were not notified when their water supply was found to be contaminated by DBCP.

(e) It is the intent of this legislation to reaffirm that notification required by the State Department of Health Services shall not exclude any users of that water supply.

SEC. 2. Section 4028 of the Health and Safety Code is amended to read:

4028. (a) When any primary drinking water standard specified in the department's regulations is not complied with, when a monitoring requirement specified in the department's regulations is not performed, or when a water purveyor fails to comply with the conditions of any variance or exemption, the person operating the public water system shall notify the department and shall give notice to the users of that fact in the manner prescribed by the department. When a variance or exemption is granted, the person operating the public water system shall give notice to the users of that fact.

(b) When a person operating a public water system determines that a significant rise in the bacterial count of water has occurred in water he or she supplies, the person shall provide, at his or her expense, a report on the rise in bacterial count of the water, together with the results of an analysis of the water, within 24 hours to the department and, where appropriate, to the county health officer.

(c) When the department receives the information described in subdivision (b) and determines that it constitutes an immediate danger to health, the department shall immediately notify the person operating the public water system to implement the emergency notification plan required by this chapter.

(d) In the case of a failure to comply with any primary drinking water standard which represents an imminent danger to the health of water users, the operator shall notify each of his or her customers as provided in the approved emergency notification plan.

(e) In addition, the same notification requirement shall be required in any instance in which the State Department of Health

Services or the county health department recommends to the operator that it notify its customers to avoid internal consumption of the water supply and to use bottled water due to a chemical contamination problem which may pose a health risk.

(f) The content of the notices required by this section shall be approved by the department. Notice shall be repeated at intervals, as required by the department, until the department concludes that there is compliance with its standards or requirements. Notices may be given by the department.

(g) Whenever a school or school system, the owner or operator of residential rental property, or the owner or operator of a business property receives a notification from a person operating a public water system under any provison of this section, the school or school system shall notify school employees, students and parents if the students are minors, the owner or operator of a residential rental property shall notify tenants, and the owner or operator of business property shall notify employees of businesses located on the property.

(1) The operator shall provide the customer with a sample notification form which may be used by the customer in complying with the requirements of this subdivision and which shall indicate the nature of the problem with the water supply and the most appropriate methods for notification which may include, but is not limited to, the sending of a letter to each water user and the posting of a notice at each site where drinking water is dispensed.

(2) The notice required by this subdivision shall be given within 10 days of receipt of notification from the person operating the public water system.

(3) Any person failing to give notice as required by this subdivision shall be civilly liable in an amount not to exceed one thousand dollars ($1,000) for each day of failure to give notice.

(4) If the operator has evidence of noncompliance with the requirements of this subdivision the operator shall report this information to the county health department and the State Department of Health Services.

SEC. 3. Reimbursement to local agencies and school districts for costs mandated by the state pursuant to this act shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code and, if the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), shall be made from the State Mandates Claims Fund.

CHAPTER 762

An act to amend Sections 258 and 404 of, to add Sections 421 and 1701.5 to, and to repeal and add Section 602 of, the Financial Code, relating to banks, and making an appropriation therefor.

[Approved by Governor September 18, 1985 Filed with Secretary of State September 18, 1985.]

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

SECTION 1. Section 258 of the Financial Code is amended to read:

258. The superintendent shall keep in the superintendent's office in a place accessible to the general public a bulletin board upon which the superintendent shall cause to be posted at noon on Friday of each week a detailed statement signed by the superintendent, or, in case of the superintendent's absence from San Francisco or inability to act, by the deputy superintendent in charge, giving general information with regard to the work of the department since the preceding statement. The detailed statement shall include the following:

(a) The name and location of every proposed bank whose application for authorization to establish a bank has been filed in the department and the date the application was filed.

(b) The name and location of every bank authorized by the superintendent to commence business, its contributed capital, and the date of authorization.

(c) The name and location of every bank to which a certificate of authorization has been refused by the superintendent and the date of notice of refusal.

(d) The name and location of every bank which has filed a report on a proposal to change its name and the name proposed.

(e) (1) The name and location of the head office of every bank which has applied for permission to open a branch office or to change the location of a branch office and the location of the new branch office or of the relocated branch office.

(2) The name, location of the existing head office, and proposed location of the head office of every bank which has filed a report on a proposed redesignation of the head office and branch office, as defined in Section 421.

(f) The date on which a call for a report by banks was issued by the superintendent and the day designated as the day with reference to which the report shall be made.

(g) The name and location of every bank whose creditors or depositors have been paid in full by the superintendent and a meeting of whose stockholders has been called, together with date of notice of meeting and date of meeting.

(h) The name and location of every bank supervised by the

department whose affairs and business are in course of liquidation or which has been finally liquidated.

(i) The name and residence of every person appointed by the superintendent as an officer or employee of the department, the title of the office or position to which appointed, the rate of compensation and the date of appointment.

Every such bulletin after having been posted for one week shall be placed on a file for such bulletins in the office of the superintendent. All such bulletins shall be public documents and shall be open to public inspection at all reasonable times during the usual hours when the superintendent's office is open.

SEC. 2. Section 404 of the Financial Code is amended to read:

404. If the proposed bank or trust company fails to file evidence of incorporation and organization with the superintendent pursuant to Section 400 within one year after the approval of the application for authority to organize the bank or trust company, the right to organize the bank or trust company automatically terminates. The superintendent, however, for good cause on written application filed before the expiration of the original period or any additional period, as the case may be, and payment of a fee of one hundred dollars ($100), may extend for additional periods not in excess of six months each the time within which the bank or trust company may be organized.

SEC. 3. Section 421 is added to the Financial Code, to read:

421. (a) As used in this section:

(1) "Branch office" has the meaning set forth in subdivision (a) of Section 500.

(2) "Redesignation of the head office and a branch office" means the relocation by a bank of its head office to the site of a branch office in this state and the concurrent establishment by the bank of a branch office at the former site of the head office.

(b) A redesignation of the head office and a branch office shall not be subject to Section 420 or to Article 1 (commencing with Section 500) of Chapter 4.

(c) A bank may effect a redesignation of the head office and a branch office, if it files with the superintendent a report on the proposed redesignation not less than 30 days before the redesignation. The report shall be in the form, shall contain the information, shall be signed in the manner, and shall, if the superintendent so requires, be verified in the manner the superintendent may require.

(d) Whenever a bank effects a redesignation of the head office and a branch office, the bank shall do the following:

(1) The bank shall surrender to the superintendent for cancellation the certificate of authority for the head office at the original site and the certificate of authority for the branch office where it is relocating the head office. The superintendent shall issue to the bank a new certificate of authority authorizing the bank to maintain the head office at the new site and a new certificate of

authority authorizing the bank to establish and operate a branch office at the former site of the head office. The bank shall pay to the superintendent a fee of twenty-five dollars ($25) for each new certificate.

(2) In the event that the bank has any other certificates of authority which list the bank's head office at the former site, the bank shall surrender the certificates to the superintendent for cancellation. The superintendent shall issue to the bank replacement certificates listing the bank's head office at the new site, and the bank shall pay to the superintendent a fee of twenty-five dollars ($25) for each replacement certificate.

SEC. 4. Section 602 of the Financial Code is repealed.

SEC. 5. Section 602 is added to the Financial Code, to read:

602. (a) A bank may change its name if it files with the superintendent a report on the proposed change not less than 30 days before the change. The report shall be in the form, shall contain the information, shall be signed in the manner, and shall, if the superintendent so requires, be verified in the manner the superintendent may require.

(b) Whenever a bank changes its name, the bank shall surrender to the superintendent for cancellation the certificates of authority under its old name for its head office, any branch offices, and any places of business. The superintendent shall issue to the bank replacement certificates under the bank's new name and the bank shall pay to the superintendent a fee of twenty-five dollars ($25) for each replacement certificate.

(c) The superintendent may not deny an application for approval of an amendment of the articles of incorporation of a bank which changes the name of the bank or any other application of a bank relating to a change in the name of the bank because the new name of the bank resembles so closely, as to be likely to cause confusion, the name of any other bank.

SEC. 6. Section 1701.5 is added to the Financial Code, to read:

1701.5. (a) For purposes of this chapter:

(1) Changing a lower class office into a higher class office shall be treated as establishing the higher class office, but not as closing the lower class office.

(2) Changing a higher class office into a lower class office shall be treated as closing the higher class office, but not as establishing the lower class office.

(b) In the case of changing a higher class office into a lower class office, when the application for approval to close the higher class office has been approved and all conditions precedent to the closing have been fulfilled, the foreign (other nation) bank may change the higher class office into the lower class office, and the superintendent shall issue a license authorizing the bank to maintain the lower class office.

CHAPTER 763

An act to amend Sections 1797.1, 1797.2, and 1797.3 of, and to add Section 1797.6 to, the Civil Code, and to amend Sections 18021.5, 18025, 18029, and 18550.5 of the Health and Safety Code, relating to consumer protection.

[Approved by Governor September 18, 1985 Filed with Secretary of State September 18, 1985]

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

SECTION 1. Section 1797.1 of the Civil Code is amended to read:

1797.1. (a) As used in this chapter, "mobilehome" is defined pursuant to Section 18008 of the Health and Safety Code and "manufactured home" is defined pursuant to Section 18007 of the Health and Safety Code.

(b) As used in this chapter, "substantial defects in materials and workmanship" means defects objectively manifested by broken, ripped, cracked, stained, or missing parts or components, or workmanship resulting in improper function of materials, components, appliances, or systems as installed or manufactured by the dealer or manufacturer.

SEC. 2. Section 1797.2 of the Civil Code is amended to read:

1797.2. The warranty provided for in this chapter shall apply to the manufacturer of the mobilehome or the manufactured home as well as to the dealer who sells the mobilehome or the manufactured home to the buyer. The warranty shall cover the electrical, plumbing, heating, cooling, fire safety, and structural systems, and all appliances of the mobilehome or manufactured home as installed or manufactured by the dealer or manufacturer.

SEC. 3. Section 1797.3 of the Civil Code is amended to read:

1797.3. The mobilehome/manufactured home warranty from the manufacturer or dealer to the buyer shall be set forth in a separate written document entitled "Mobilehome/Manufactured Home Warranty," shall be delivered to the buyer by the dealer at the time the contract of sale is signed, and shall contain, but is not limited to, the following terms:

(a) That the mobilehome or manufactured home is free from any substantial defects in materials or workmanship.

(b) That the manufacturer or dealer or both shall take appropriate corrective action at the site of the mobilehome or manufactured home in instances of substantial defects in materials or workmanship which become evident within one year from the date of delivery of the mobilehome or manufactured home to the buyer, provided the buyer or his or her transferee gives written notice of those defects to the manufacturer or dealer at their business address not later than one year and 10 days after date of delivery.

(c) That the manufacturer and dealer shall be jointly and

severally liable to the buyer for the fulfillment of the terms of warranty, and that the buyer may notify either one or both of the need for appropriate corrective action in instances of substantial defects in materials or workmanship.

(d) That the address and the phone number of where to mail or deliver written notices of defects shall be set forth in the document.

(e) That the one-year warranty period applies to the plumbing, heating, electrical, cooling, fire safety, and structural systems and all appliances of the mobilehome or manufactured home.

(f) That while the manufacturers of any or all appliances may also issue their own warranties, the primary responsibility for appropriate corrective action under the warranty rests with the dealer and manufacturer, and the buyer should report all complaints to the dealer and manufacturer initially.

(g) That if corrective action taken by the manufacturer or dealer fails to eliminate a substantial defect, then the material, system, appliance, or component shall be replaced in kind. As used in this subdivision, "replaced in kind" means (1) replacement with the identical material, system, appliance, or component, and, if not available (2) replacement with a comparable or better material, system, appliance, or component.

SEC. 4. Section 1797.6 is added to the Civil Code, to read:

1797.6. Manufacturers and dealers shall keep records of all actions taken pursuant to this chapter including all correspondence to or from the buyer for a period of three years from the date of delivery.

SEC. 5. Section 18021.5 of the Health and Safety Code is amended to read:

18021.5. (a) Any person who knowingly violates any of the provisions of this part relating to licensing or titling and registration, or any rules or regulations promulgated therefor, is guilty of a misdemeanor, punishable by a fine not exceeding two thousand dollars ($2,000) or by imprisonment not exceeding 30 days, or by both.

(b) The department, after notice and hearing, may suspend or revoke the license issued to a licensee, as provided for by this part, who knowingly violates any of the provisions of this part. In any hearing before a judge or in any administrative action before an administrative law judge, the department may seek and may recover its investigative and enforcement costs from the licensee unless the licensee prevails on the charges. The department may also seek fines, and may seek restitution as provided in subdivision (d).

(c) Any person who knowingly violates any provision of this part relating to licensing or titling and registration, or any rules or regulations promulgated therefor, shall be liable for a civil penalty not exceeding two thousand dollars ($2,000) for each violation or for each day of a continuing violation. The department shall institute or maintain an action in a court of appropriate jurisdiction to collect any civil penalty arising under this section.

(d) In addition to the other remedies provided in this section, the

department may pursue any other remedies provided for in this part and may seek restitution for any monetary loss to a purchaser, seller, licensee, financing agency, governmental agency, or other person or entity suffering a monetary loss as a result of a violation of this part.

SEC. 6. 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, commercial coach, special purpose commercial coach, or recreational vehicle manufactured after September 1, 1958, containing structural, fire safety, plumbing, heat-producing, or electrical systems and equipment unless the systems and equipment meet the requirements of the department for those systems and equipment and the installation of them. The department may promulgate those rules and regulations which shall be reasonably consistent with recognized and accepted principles for structural, fire safety, plumbing, heat-producing, and electrical systems and 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 structural, fire safety, 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.).

SEC. 7. Section 18029 of the Health and Safety Code, as amended by Section 11 of Chapter 975 of the Statutes of 1981, is amended to read:

18029. It is unlawful for any person to alter or convert, or cause to be altered or converted, the structural, fire safety, plumbing, heat-producing, or electrical systems and installations or equipment of a manufactured home, mobilehome, recreational vehicle, special purpose commercial coach, or commercial coach which bears a department insignia of approval or federal label when the manufactured home, mobilehome, recreational vehicle, special purpose commercial coach, or commercial coach is used, occupied, sold, or offered for sale within this state, unless performance is in compliance with regulations adopted by the department. The department may adopt regulations providing requirements for alterations and conversions.

SEC. 8. 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 only if such act is in accordance with the purchase document and subdivision (a) of

Section 18035.3.

(c) A manufacturer may deliver a manufactured home or mobilehome to a dealer without the towbar, wheels, wheel hubs, or axles or may remove or cause those items to be removed if the manufacturer complies with the provisions of Section 18032.

SEC. 9. No reimbursement is required by this act pursuant to 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 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 764

An act to amend Sections 907, 1503, 1504, 2105, and 2108 of, to add Sections 2117, 2206, and 2302.5 to, and to repeal and add Section 2107 of, the Corporations Code, and to amend Sections 12210 and 12210.5 of the Government Code, relating to corporations.

[Approved by Governor September 18, 1985. Filed with Secretary of State September 18, 1985]

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

SECTION 1. Section 907 of the Corporations Code is amended to read:

907. (a) The certificate of amendment shall establish the wording of the amendment or amended articles by one or more of the following means:

(1) By stating that the articles shall be amended to read as therein set forth in full.

(2) By stating that any provision of the articles, which shall be identified by the numerical or other designation given it in the articles or by stating the wording thereof, shall be stricken from the articles or shall be amended to read as set forth in the certificate.

(3) By stating that the provisions set forth therein shall be added to the articles.

(b) If the purpose of the amendment is to effect a stock split or reverse stock split or to reclassify, cancel, exchange, or otherwise change outstanding shares, the amended articles shall state the effect thereof on outstanding shares.

(c) In the event of an amendment to change the statement of authorized shares from a single class of shares to two classes, the shares outstanding immediately prior to the amendment are automatically considered to be the same number of shares of the common stock class. If the designation of only one of the two classes includes "common," that class is the common stock class. If the designation of both classes or of neither class includes "common" but

one of the two classes has limited or no voting rights, the class whose voting rights are not limited is the common stock class for the purpose of this subdivision. This subdivision has no application if the amendment of articles includes a statement of the effect of the amendment on outstanding shares pursuant to subdivision (b).

(d) An amendment which adds or eliminates a stated par value or changes the stated par value and which does not also state the effect of the amendment on outstanding shares is not thereby subject to subdivision (b).

SEC. 1.5. Section 1503 of the Corporations Code is amended to read:

1503. An agent designated for service of process pursuant to Section 202, 1502, 2105, or 2117 may file a signed and acknowledged written statement of resignation as such agent. Thereupon the authority of the agent to act in such 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 corporation addressed to its principal executive office.

SEC. 2. Section 1504 of the Corporations Code is amended to read:

1504. If a natural person who has been designated agent for service of process pursuant to Section 202, 1502, 2105, or 2117 dies or resigns or no longer resides in the state or if the corporate agent for such 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, the corporation shall forthwith file a designation of a new agent conforming to the requirements of Section 1502 or 2117.

SEC. 3. Section 2105 of the Corporations Code is amended to read:

2105. (a) A foreign corporation shall not transact intrastate business without having first obtained from the Secretary of State a certificate of qualification. To obtain that certificate it shall file, on a form prescribed by the Secretary of State, a statement and designation signed by a corporate officer stating:

(1) Its name and the state or place of its incorporation or organization.

(2) The address of its principal executive office.

(3) The address of its principal office within this state, if any.

(4) The name of an agent upon whom process directed to the corporation may be served within this state. Such designation shall comply with the provisions of subdivision (b) of Section 1502.

(5) Its irrevocable consent to service of process directed to it upon the agent designated and to service of process on the Secretary of State if the agent so designated or the agent's successor is no longer authorized to act or cannot be found at the address given.

(6) If it is a corporation which will be subject to the Insurance Code as an insurer, it shall so state that fact.

(b) Annexed to that statement and designation shall be a

certificate by an authorized public official of the state or place of incorporation of the corporation to the effect that such corporation is an existing corporation in good standing in that state or place or, in the case of an association, an officers' certificate stating that it is a validly organized and existing business association under the laws of a specified foreign jurisdiction.

(c) Before it may be designated by any foreign corporation as its agent for service of process, any corporate agent must comply with Section 1505.

SEC. 4. Section 2107 of the Corporations Code is repealed.

SEC. 5. Section 2107 is added to the Corporations Code, to read:

2107. (a) If any foreign corporation (but not a foreign association) qualified to transact intrastate business shall change its name or make a change affecting an assumed name under Section 2106, it shall file, on a form prescribed by the Secretary of State, an amended statement signed by a corporate officer setting forth the change made. The amended statement shall set forth the name relinquished as well as the new name assumed and there shall be annexed to the amended statement a certificate of an authorized public official of its state or place of incorporation that the change of name was made in accordance with the laws of that state or place. Upon the filing of the amended statement, the Secretary of State shall issue a new certificate of qualification.

(b) If any foreign association qualified to transact intrastate business shall change its name, the address of its principal office in this state, the address of its principal executive office or its agent for the service of process, or if the stated address of any natural person designated as agent is changed, it shall file, on a form prescribed by the Secretary of State, an amended statement and designation signed by an officer setting forth the change or changes made. In the case of a change of name, the amended statement and designation shall set forth the name relinquished as well as the new name assumed and there shall be annexed to the amended statement and designation an officer's certificate stating that such change of name was made in accordance with its declaration of trust. If the change includes a change of name, or a change affecting an assumed name pursuant to Section 2106, upon the filing of the amended statement, the Secretary of State shall issue a new certificate of qualification.

(c) If the change includes a change of name of an insurer subject to the Insurance Code, the form shall include a statement that the corporation is such an insurer if it does not already so appear.

(d) If a foreign corporation qualified to transact business in this state shall change the address of its principal office in this state, the address of its principal executive office, or its agent for the service of process, or if the stated address of any natural person designated as agent is changed, the filing of a statement pursuant to Section 2117 shall supersede the statement and designation with respect thereto.

SEC. 6. Section 2108 of the Corporations Code is amended to read:

2108. (a) Except as provided in subdivision (f), each foreign corporation (other than a foreign association) qualified to transact intrastate business and each foreign parent corporation subject to Section 2115 shall file annually within three months and 15 days after the close of its income year ending on or after December 31, 1976 or within 30 days after the filing of its franchise tax return with the Franchise Tax Board if an extension of time for filing the return was granted, an officers' certificate setting forth:

(1) The percentage of its outstanding voting securities held of record, as of the last record date for a shareholder's meeting, by persons having addresses in this state, calculated as provided in Section 2115 and either

(2) That all the income of the corporation was taxable for California franchise tax purposes or that such income would have been so taxable if the corporation had had sufficient income to be subject to more than the minimum franchise tax; or

(3) Its property factor, payroll factor and sales factor computed as provided in Section 2115.

If the percentage in response to paragraph (1) is 40 percent or less, the officers' certificate need not include the information required by paragraph (2) or (3).

(b) The Secretary of State shall mail a form for compliance with this section to each foreign corporation qualified to transact intrastate business in reasonably sufficient time for such compliance. The form shall state the due date thereof and shall be mailed to the last address of the corporation according to the records of the Secretary of State. Neither the failure of the Secretary of State to mail the form nor the failure of the corporation to receive it is an excuse for failure to comply with this section.

(c) The Secretary of State need not mail a form to a foreign corporation exempted from this section by subdivision (f) or a foreign corporation whose right to exercise its corporate powers, rights and privileges in this state were forfeited by the Franchise Tax Board pursuant to Section 23301 or 23301.5 of the Revenue and Taxation Code more than six months prior to the date the Secretary of State would otherwise have mailed the form pursuant to subdivision (b) and which right has not been revived on or prior to such date of mailing.

(d) The Secretary of State shall forfeit the right of any foreign corporation to transact intrastate business if it fails to file the statement required by this section for a period of six months after notice given to it by the Secretary of State that such filing is delinquent and that it will have its right to transact intrastate business forfeited unless it complies with this section.

(e) Neither the report required by this section nor the computation provided by Section 2115 shall have any effect with respect to the basis upon which the corporation reports its income for franchise tax purposes.

(f) A foreign corporation is exempt from filing an officers'

certificate pursuant to this section if, as indicated by the most recent filing pursuant to Section 2117, the foreign corporation is any of the following:

(1) A corporation described in subdivision (e) of Section 2115.

(2) An insurer pursuant to Section 28 of Article XIII of the California Constitution.

(3) A nonprofit corporation.

(g) As used in this section, an officers' certificate is a certificate signed and verified by any one of the officers specified in Section 173, or by an officer performing similar duties under another title.

SEC. 7. Section 2117 is added to the Corporations Code, to read:

2117. (a) Every foreign corporation (other than a foreign association) qualified to transact intrastate business shall file, annually during the applicable filing period in each year, on a form prescribed by the Secretary of State, a statement containing: (1) the names and complete business or residence addresses of its chief executive officer, secretary and chief financial officer; (2) the street address of its principal executive office; (3) the street address of its principal business office in this state, if any; and (4) a statement of the general type of business which constitutes the principal business activity of the corporation (for example, manufacturer of aircraft; wholesale liquor distributor; retail department store). If the officers of the corporation use other titles, the statement shall include the officers performing comparable duties under other titles. If the corporation has no officers, or has no officers who are natural persons, the statement shall include the names of natural persons performing comparable duties for the corporation pursuant to a management contract or other arrangement.

(b) The statement required by subdivision (a) shall also designate, as the agent of the corporation for the purpose of service of process, a natural person residing in this state or a corporation that has complied with Section 1505 and whose capacity to act as such agent has not terminated. If a natural person is designated, the statement shall set forth the person's complete business or residence address. If a corporate agent is designated, no address for it shall be set forth.

(c) The statement shall also include wording prescribed by the Secretary of State by which the corporation may indicate that the corporation is exempt from filing an officers' certificate pursuant to subdivision (f) of Section 2108.

(d) Whenever any of the information required by subdivision (a) is changed, the corporation may file a current statement containing all the information required by subdivisions (a) and (b). In order to change its agent for service of process or the address of the agent, the corporation shall file a current statement containing all the information required by subdivisions (a) and (b). Whenever any statement is filed pursuant to this section, it supersedes any previously filed statement and the statement in the filing pursuant to Section 2105.

(e) Subdivisions (c), (d), (f), and (g) of Section 1502 apply to statements filed pursuant to this section except that "articles" shall mean the filing pursuant to Section 2105.

SEC. 8. Section 2206 is added to the Corporations Code, to read:

2206. (a) Sections 2204 and 2205 apply to foreign corporations with respect to the statements required to be filed by Section 2117. For this purpose, the suspension of the corporate powers, rights, and privileges of a domestic corporation shall mean the forfeiture of the exercise of the corporate powers, rights, and privileges of a foreign corporation in this state.

(b) A foreign nonprofit corporation which has suffered the forfeiture of the exercise of the corporate powers, rights, and privileges in this state may nevertheless file an application for exempt status as specified in Section 23301 of the Revenue and Taxation Code.

(c) The forfeiture of the exercise of the corporate powers, rights, and privileges of a foreign corporation in this state as used in subdivision (a) does not prohibit the transaction of business in this state by a foreign corporation if the business transacted subsequent to the forfeiture would not, considered as an entirety, require the foreign corporation to obtain a certificate of qualification pursuant to Sections 191 and 2105.

SEC. 8.5. Section 2302.5 is added to the Corporations Code, to read:

2302.5. The absence of any reference to par value in the articles of a corporation which is subject to the prior law relating to the contents of articles as specified in Section 2302 is equivalent to a statement that the shares of stock are to be without par value.

SEC. 9. Section 12210 of the Government Code is amended to read:

12210. (a) The fee for filing the statement pursuant to Section 1502 or 2117 of the Corporations Code is five dollars ($5).

(b) The fee for filing the statement pursuant to Section 6210, 8210, or 6210 as made applicable pursuant to Section 9660 of the Corporations Code is two dollars and fifty cents ($2.50).

(c) The fee for filing the statement pursuant to Section 12570 of the Corporations Code is two dollars and fifty cents ($2.50).

(d) There is no filing fee for filing an officers' certificate pursuant to Section 2108 of the Corporations Code.

SEC. 10. Section 12210.5 of the Government Code is amended to read:

12210.5. The fee for furnishing a copy of a statement filed pursuant to Section 1502, 2108, 2117, 6210, 8210, 12570, or Section 6210 as made applicable pursuant to Section 9660 of, the Corporations Code or Section 3301 of the Corporations Code as in effect prior to January 1, 1977, is one dollar ($1).

SEC. 11. This act shall become operative on July 1, 1986, except for Sections 1 and 8.5 of this act, which shall become operative on January 1, 1986.

CHAPTER 765

An act to amend Section 600 of the Penal Code, relating to law enforcement.

[Approved by Governor September 18, 1985. Filed with Secretary of State September 18, 1985.]

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

SECTION 1. Section 600 of the Penal Code is amended to read:

600. (a) Any person who willfully and maliciously and with no legal justification strikes, beats, kicks, cuts, stabs, shoots with a firearm, administers any poison or other harmful or stupefying substance to, or throws, hurls, or projects at, or places any rock, object, or other substance which is used in such a manner as to be capable of producing injury and likely to produce injury, on or in the path of, any horse being used by, or any dog under the supervision of, any peace officer in the discharge or attempted discharge of his or her duties, is guilty of a public offense. If the injury inflicted is a serious injury, as defined in subdivision (c), the person shall be punished by imprisonment in the state prison for 16 months, two or three years, or in a county jail for not exceeding one year, or by a fine not exceeding two thousand dollars ($2,000), or by both a fine and imprisonment. If the injury inflicted is not a serious injury, the person shall be punished by imprisonment in the county jail for not exceeding one year, or by a fine not exceeding one thousand dollars ($1,000), or by both a fine and imprisonment.

(b) Any person who willfully and maliciously and with no legal justification interferes with or obstructs any horse or dog being used by any peace officer in the discharge or attempted discharge of his or her duties by frightening, teasing, agitating, harassing, or hindering the horse or dog shall be punished by imprisonment in a county jail for not exceeding one year, or by a fine not exceeding one thousand dollars ($1,000), or by both a fine and imprisonment.

(c) Any person who, in violation of this section, and with intent to inflict such injury or death, personally causes the death, destruction, or serious physical injury including bone fracture, loss or impairment of function of any bodily member, wounds requiring extensive suturing, or serious crippling, of any horse or dog, shall, upon conviction of a felony under this section, in addition and consecutive to the punishment prescribed for the felony, be punished by an additional term of imprisonment in the state prison for one year.

(d) Any person who, in violation of this section, and with the intent to inflict such injury, personally causes great bodily injury, as defined in Section 12022.7, to any person not an accomplice, shall, upon conviction of a felony under this section, in addition and consecutive to the punishment prescribed for the felony, be

punished by an additional term of imprisonment in the state prison for two years unless the conduct described in this subdivision is an element of any other offense of which the person is convicted or receives an enhancement under Section 12002.7.

(e) In any case in which a defendant is convicted of a violation of this section, the defendant shall be ordered to make restitution to the agency owning the animal and employing the peace officer for any veterinary bills, replacement costs of the animal if it is disabled or killed, and the salary of the peace officer for the period of time his or her services are lost to the agency.

SEC. 2. No reimbursement is required by this act pursuant to 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 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 766

An act to amend Sections 15820.10, 15820.18, 15820.40, and 15830 of, and to repeal Section 15818 of, the Government Code, relating to state building construction, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 18, 1985 Filed with Secretary of State September 18, 1985]

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

SECTION 1. Section 15818 of the Government Code is repealed.

SEC. 2. Section 15820.10 of the Government Code is amended to read:

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 used to finance the construction of that public building or facility.

(d) It is the intent of the Legislature that preliminary plans for each project shall be made available for legislative review prior to the authorization of funding under the provisions of this chapter.

SEC. 3. Section 15820.18 of the Government Code is amended to read:

15820.18. (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 used to finance that public building or facility.

At any legislative hearing wherein a proposed statute described in this subdivision is considered, there shall be included, but not limited to, in that consideration an examination of the total interest cost of the issue.

SEC. 4. Section 15820.40 of the Government Code is amended to read:

15820.40. (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 or 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 used to finance that public building or facility.

SEC. 5. Section 15830 of the Government Code is amended to read:

15830. The bonds issued to finance the construction of a public building or buildings pursuant to this part shall be special obligations of this state secured solely by the revenues, rentals, or receipts received from the operation of the public building or buildings financed by such bonds.

No bond issued or sold pursuant to this part shall be or become a lien, charge, or liability against the State of California or against its property or funds except to the extent of the pledges expressly made by this part. Every bond issued pursuant to this part shall contain a recital on the face thereof stating that neither the payment of the principal nor any part thereof, nor any interest thereon, constitutes a debt, liability, or general obligation of the State of California other than as provided in this part. The board has no power at any time or in any manner to pledge the credit or taxing power of the state, other than as provided in this part.

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 expedite the construction of public high technology facilities already approved in the Budget Act of 1984, it is necessary that this act take effect immediately.

CHAPTER 767

An act to add Chapter 1.11 (commencing with Section 199.7) to Part 1 of Division 1 of the Health and Safety Code, relating to health, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 18, 1985 Filed with Secretary of State September 19, 1985.]

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

SECTION 1. Chapter 1.11 (commencing with Section 199.7) is added to Part 1 of Division 1 of the Health and Safety Code, to read:

CHAPTER 1.11. CALIFORNIA AIDS PROGRAM (CAP)

199.7. The intent of the Legislature in enacting this chapter is as follows:

(a) To fund specified pilot AIDS education programs.

(b) To fund pilot projects to demonstrate the value of noninstitutional health care services such as hospice, home health, and attendant care in controlling costs and providing humane care to people with AIDS and AIDS-related conditions.

(c) To fund clinical research.

(d) To fund the development of an AIDS Mental Health Project.

(e) To fund specified needs assessments, studies, and program evaluations.

(f) To authorize use of funds appropriated by Section 6 of Chapter 23, Statutes of 1985, for preventive education for individuals who are seropositive as a result of antibody testing.

(g) To promote broad-based support for AIDS programs by encouraging community level networking and coordination of efforts among private sector, nonprofit, and public service agencies as well as health care professionals and providers of essential services.

199.71. (a) The State Department of Health Services shall:

(1) Additionally, use funds appropriated by Section 6 of Chapter 23 of the Statutes of 1985 for purposes of making reimbursements to counties pursuant to Section 1632, for preventive education for individuals who are seropositive as a result of antibody testing.

(2) Issue contracts to evaluate the effectiveness of the AIDS information and education program conducted by the state department.

(3) Issue contracts for development and implementation of pilot programs of professional education and training for hospital, home health agency, and attendant care workers.

(4) Issue contracts for the development and implementation of pilot programs to reduce the spread of AIDS through residential detoxification and outpatient detoxification and treatment services for intravenous drug users with AIDS or AIDS-related conditions.

(5) Monitor state and federal AIDS-related budget and policy development, and coordinate budget items to ensure that funding for matters related to AIDS is adequate and complete within the state department each fiscal year.

(6) Develop and maintain an information clearing house within the state department including periodic updates or releases to inform health professionals or community organizations providing services to people with AIDS or AIDS-related conditions of the status of current or new clinical drug trials. Such updates shall be compiled through review of scientific journals and in conjunction with the UC AIDS Task Force and researchers conducting clinical drug trials in California.

(7) Review, edit, and input summaries from scientific journals into the Computerized AIDS Information Network (CAIN), and do outreach about CAIN availability to health professionals.

(8) Develop and conduct a needs assessment of the availability of supportive services for people with AIDS or AIDS-related conditions. The needs assessment shall be conducted in conjunction with the state's AIDS education contractors and with any public or private

agencies providing services to people with AIDS or AIDS-related conditions.

(9) Promote information and education programs for the general public to correct misinformation about AIDS. This shall include, but need not be limited to, periodic press releases to the printed and broadcast media and public service announcements.

(b) The State Director of Health Services shall contract for a prospective two-year study to accomplish the following objectives:

(1) Determine the medical costs of AIDS, comparing inpatient care, outpatient care, physician services, and community support services.

(2) The study shall include cost factors in the review of inpatient costs which may not be apparent in the analysis of charges, such as private rooms and social work.

The study shall include an interim report to the Legislature six months after receipt of funding and a final report to the Legislature within two years of receipt of funding so that the state can be in a knowledgeable position to plan for and provide the services and funding needed to meet this public health crisis.

(c) Notwithstanding any provision of Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code, if the State Director of Health Services determines that it is in the best interest of the state to enter into a contract for the purposes specified below without competitive bids, then the state director may, during the 1985–86 fiscal year, enter into a sole source contract for all of the following:

(1) Educational program evaluation.

(2) Education of hospital, home health agency, and attendant care workers.

(3) Drug education and treatment program.

(4) The cost of care study.

199.72. (a) Personal data in any investigations, reports, and information relating thereto shall be kept confidential and be afforded protections provided by Section 211.5, except as provided by Section 1603.1 or 1603.3.

(b) If patient-identifying information is subpoenaed from the state department, the state department shall seek and the court shall issue a protective order keeping this information confidential. The court order may require production, but limit the use and disclosure of, records, require production with names and identifying information deleted, provide sanctions for misuse of records or set forth other methods for assuring confidentiality.

199.73. The State Director of Health Services shall:

(a) Be prepared to report to the Legislature on the amounts and recipients of contracts or block grant awards, and needs assessments conducted by the state department.

(b) Issue once each month a public information release to the state contractors, local health departments, medical societies or organizations, nursing associations, hospital and hospital

administrator associations, blood banks or centers, hemophilia associations and treatment centers, lesbian and gay health organizations, media outlets or community organizations, and other interested organizations or individuals, and the news media identifying research breakthroughs, new treatment protocols, infection control updates, surveillance and morbidity statistics, and other current and up-to-date information regarding AIDS education, treatment, or patient service programs.

199.74. Pilot projects to demonstrate the cost effectiveness of home health, attendant, or hospice care shall be initiated through a block grant program, as described in this section.

(a) The state director shall designate the contractors and the amounts that contractors will receive for the block grant direct service demonstration projects.

(b) An amount of not more than 10 percent of the grant may be retained by contractors for administrative overhead. Contractors accepting block grant funds shall compile comparative cost data reports for transmission to the department and the Legislature. Reports shall be made semiannually until the conclusion of the project.

(c) Contractors receiving direct service block grants shall:

(1) Encourage broad-based community involvement and support for AIDS programs and involve charitable, other nonprofit, and other agencies as well as health care professionals as providers of essential services.

(2) Ensure the proposed services are not duplicated in the community and are based on the needs of people with AIDS, AIDS-related conditions, at-risk communities, their families or others affected by AIDS.

(3) Make maximum use of other federal, state, and local funds and programs.

(4) Provide services which are culturally and linguistically appropriate to the population served.

(c) Counties with existing programs of demonstrated effectiveness in AIDS education or services shall receive equal consideration with other applicants and shall not be penalized when awarding funds pursuant to this chapter with respect to the proposed expansion of their programs.

(d) Contractors shall develop a comprehensive service system including, but not limited to, the following essential services, which can be provided either directly by the contractors or indirectly through a referral network arranged by the contractor:

(1) Provision for hospice, skilled nursing facility, home health care, and homemaker chore services.

(2) Individual consultation and health planning and assessment.

(3) Information for people with AIDS or AIDS-related conditions regarding death and dying.

(4) Evaluation and referral services for medical care.

(5) Referral services for mental health services, as appropriate.

(6) Assistance in applying for financial aid or social services which are available and for which clients qualify.

The system of essential services developed by a contractor shall offer maximum opportunity for involvement of family, friends, domestic partners and of nonprofit and charitable organizations in preventing the severe, adverse health and social consequences which result from being diagnosed with AIDS or AIDS-related conditions.

(e) The direct service program for provision of essential services shall ensure:

(1) An ongoing quality assurance program.

(2) Confidentiality assurances and methods for developing interagency confidentiality agreements.

199.75. The Department of Mental Health shall establish an AIDS mental health project, as described in this section.

(a) The program should include, but need not be limited to, the following:

(1) The conduct of a statewide needs assessment of AIDS-related mental health issues.

(2) The conduct of education and training for mental health professionals throughout the state.

(3) The conduct, through the Office of Promotion, of a media campaign on such issues as the use of support groups, the relationship between stress and the immune system, and dealing with grief.

(b) The Department of Mental Health shall coordinate projects and resources directly with the State Department of Health Services.

(c) The Director of the Department of Mental Health may appoint advisory groups for this project as needed.

(d) Notwithstanding any provision of Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code, if the Director of Mental Health determines that it is in the best interest of the state to enter into a contract for the purposes specified in this section without competitive bids, then the director may, during the 1985–86 fiscal year, enter into a sole source contract for these purposes.

199.76. Pilot programs to reduce the spread of AIDS through residential detoxification and outpatient detoxification and treatment services for intravenous drug users, as described in paragraph (4) of subdivision (a) of Section 199.71, shall be initiated through local agency operated AIDS-related substance abuser programs.

(a) The director shall designate the local agency contractors and the amounts that these contractors will receive for the AIDS-related substance abuser demonstration programs.

(b) The contractors shall develop a comprehensive service system including, but not limited to, the following essential services, which can be provided either directly by the contractors or through a referral network arranged by the contractors:

(1) Residential detoxification programs for intravenous drug

users.

(2) Outpatient detoxification programs including health promotion and health assessment for intravenous drug users.

(3) AIDS and substance abuse information, consultation and resource referral to providers of services to AIDS patients and to drug treatment providers.

(4) Outreach, health promotion, health assessment, consultation and referrals for homeless youth substance abusers.

199.77. The amount of two million three hundred thousand dollars ($2,300,000), appropriated pursuant to Section 2 of this act, shall be allocated to the University of California for research into AIDS. When expending these funds, the university shall solicit and consider proposals from within the University of California system and from universities and colleges outside the University of California system as well. In the expenditure of these funds, it is the preference of the Legislature that priority be given to viral cultures, clinical trials, and the administrative and laboratory support services necessary to conduct such trials.

SEC. 2. The sum of four million nine hundred sixty thousand dollars ($4,960,000) is hereby appropriated from the General Fund to the Controller for allocation and expenditure for the following purposes:

(a) To the State Department of Health Services:	
(1) For staff support for the Computerized AIDS Information Network, as described in paragraph (7) of Section 199.71 of the Health and Safety Code	$ 60,000
(2) For distribution to contractors pursuant to Chapter 1.11 (commencing with Section 199.7) of Part 1 of Division 1 of the Health and Safety Code for:	
(A) Educational program evaluation, as described in paragraph (2) of Section 199.71 of the Health and Safety Code	$ 150,000
(B) Education of hospital, home health agency, and attendant care workers, as described in paragraph (3) of subdivision (a) of Section 199.71 of the Health and Safety Code	$ 250,000
(C) Community support block grants as described in Section 199.74 of the Health and Safety Code	$1,000,000
(D) Treatment of intravenous drug users with AIDS or AIDS-related condition, as described in paragraph (4) of subdivision (a) of Section 199.71 of the Health and Safety Code	$ 400,000
(E) AIDS "Cost of Care Study" described in subdivision (b) of Section 199.71 of the Health and Safety Code	$ 200,000

(b) To the State Department of Mental Health for purposes of Section 199.75 of the Health and Safety Code	$ 600,000
(c) To the University of California for clinical drug trials, viral cultures, administrative and laboratory support, as described in Section 199.76 of the Health and Safety Code	$2,300,000

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

In order that the fundamental statutory revisions affecting the response to Acquired Immune Deficiency Syndrome in California take effect at the earliest possible time, it is necessary that this act go into immediate effect.

CHAPTER 768

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

[Approved by Governor September 18, 1985. Filed with Secretary of State September 19, 1985]

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

SECTION 1. The powers granted to a nonprofit public benefit corporation by Section 5140 of the Corporations Code shall, if the corporation is described in paragraph (2) of subdivision (b) of Section 23701d of the Revenue and Taxation Code, include the power to provide athletic facilities and equipment. Any such corporation may also pay the reasonable value of services, up to one thousand dollars ($1,000) per person, rendered to the corporation by any volunteer in connection with the staging of national or international amateur sports competition whether or not there existed an expectation of payment at the time the services were rendered.

This section shall remain in effect only until January 1, 1996, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1996, deletes or extends such date.

SEC. 2. It is the intent of the Legislature in enacting Section 1 of this act to clarify the meaning of Section 5140 of the Corporations Code. The Legislature hereby finds and declares that the provisions of this act are retroactive.

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 expedite the liquidation of the Los Angeles Olympic Organizing Committee and wind up its affairs as quickly as possible, it is necessary that this act take effect immediately.

CHAPTER 769

An act to amend Section 6529 of the Business and Professions Code, relating to barbers.

[Approved by Governor September 18, 1985. Filed with Secretary of State September 19, 1985]

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

SECTION 1. Section 6529 of the Business and Professions Code is amended to read:

6529. No raise in fees for any one category of fees imposed by the Board of Barber Examiners in any given biennial renewal period shall exceed the sum of five dollars ($5) for any one category of fees except for delinquent licenses, which fees shall not exceed ten dollars ($10), and barber colleges, which fees shall not exceed twenty-five dollars ($25) except the barber college inspection fee which shall not exceed ten dollars ($10). No fee shall exceed the maximum amount allowable for fees for any purpose set forth in this chapter.

CHAPTER 770

An act to amend Sections 705, 705.1, 714, 857, 859, 881, 882, 900.5, 924, 940.1, 949, 1011.5, 1076, 1101, 1113, 1140.5, 1215.2, 1215.4, 1401.5, 1590, 1599, 1601, 1650, 1717.5, 1718, 1719, 1750, 1751, 1751.3, 1755, 1765, 1811, 1842, 1854, 1854.25, 4060, 5051, 7015.5, 7042, 9098, 10400, 10479.5, 10493, 10506.1, 10506.2, 11019, 11090, 11401, 11504, 11509, 11520.5, 11620, 11693.5, 11715, 11751.55, 12161, 12162, 12168, 12389, 12416, 12640.20, 12931, 12970, 12973, 12973.5, 12975.8, 12978, 14042, and 14097 of, to repeal and add Sections 1629 and 1630 to, the Insurance Code, and to amend Sections 10 and 11 of Chapter 722 of the Statutes of 1982, relating to insurance, and making an appropriation therefor.

[Approved by Governor September 18, 1985 Filed with Secretary of State September 19, 1985.]

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

SECTION 1. Section 705 of the Insurance Code is amended to read:

705. The commissioner shall require the payment of fifty-eight

dollars ($58) in lawful money of the United States, in advance as a fee for filing an application for each amendment of a certificate of authority authorizing any insurer to transact business in this state. Notwithstanding the provisions of Section 701 each insurer possessing a certificate of authority of indefinite term pursuant to such section shall owe and pay an annual fee of one hundred seventy-seven dollars ($177) in lawful money of the United States in advance on account of such certificate until its final expiration. Such fee shall be for annual periods commencing on July 1st of each year and ending on June 30th of each year and shall be due on each March 1st and shall be delinquent on and after each April 1st.

SEC. 1.1. Section 705.1 of the Insurance Code is amended to read:

705.1. The commissioner shall require the payment of one thousand seven hundred seventy dollars ($1,770) in lawful money of the United States in advance as a fee for filing an application and all supporting exhibits including articles of incorporation, certificates of organization, certificates of capital and assets, certificates of deposit, financial statements, affidavits, appointments of agents for service of process, bonds, deposit schedules, appraisals, and other papers, in support of each original certificate of authority. Such fee shall be in lieu of the fees for filing or receiving such papers in support of an application for an original certificate of authority as specified in Section 940.1 and as specified in the following sections of the Insurance Code as they existed on January 1, 1963: 705, 712, 900.5, 946, 976, 1350, 1590 (but not 1599), 1601, 7034, 9034 and 11090.

SEC. 1.2. Section 714 of the Insurance Code is amended to read:

714. The commissioner shall require the payment of twenty-nine dollars ($29) in lawful money of the United States, in advance, as a fee for filing papers required under Section 713, on account of change or changes made at one time.

SEC. 1.3. Section 857 of the Insurance Code is amended to read:

857. The commissioner shall charge and collect the following fees:

(a) For filing an original or supplemental application, or any amendments thereto, for a permit to issue securities, one thousand seven hundred seventy dollars ($1,770) except for applications for a permit to issue securities evidencing any change in rights, preferences, privileges, or restrictions on outstanding securities, or for applications for a permit to issue securities evidencing only a share dividend or a share split.

(b) For filing an application for a permit to issue securities evidencing any change in the rights, preferences, privileges, or restrictions on outstanding securities, two hundred thirty-six dollars ($236).

(c) For filing an application for a permit to issue securities evidencing a share dividend or a share split, five hundred ninety dollars ($590).

(d) For filing an application for any other kind of permit, such as an application, for the issuance of a preorganizational or a

negotiating permit, an application for a permit to issue options for securities, but not for the securities themselves, or any application for an amendment to an existing permit to issue securities, one hundred eighteen dollars ($118).

(e) An original or supplemental application shall not be amended after the permit sought thereby or by amendment thereto has been issued or denied.

SEC. 2. Section 859 of the Insurance Code is amended to read:

859. The commissioner shall also collect the following fees:

(a) For filing any application for a broker's certificate, one hundred eighteen dollars ($118) for the first office or location plus fifty-eight dollars ($58) for each additional office or location.

(b) For filing any application for an agent's certificate, fifty-eight dollars ($58).

(c) For an examination, audit, or investigation, the actual amount of expenses reasonably incurred in the performance of the work, plus the following:

(1) If made by an employee of the commissioner, the actual amount of the compensation paid to such employee for that time.

(2) The amount of the usual cost to the state of typing, transcribing or otherwise preparing any written report of such examination, audit or investigation that may reasonably be needed in the discharge of the commissioner's duties.

SEC. 3. Section 881 of the Insurance Code is amended to read:

881. The commissioner shall require the name or any changed name of every insurer (including reciprocal or interinsurance exchanges), every attorney in fact, every motor club and every underwritten title company to be submitted to him by written application and approved by him before such name is used in this state for business purposes. If approved, the commissioner shall issue his official certificate approving the name, and when appropriate, reserving the name for the following time periods, which shall commence on the date of the approval:

(1) One year where the applicant is newly formed, or where the application is filed on behalf of an entity to be formed, under the laws of this state.

(2) One hundred eighty days and during the pendency in good faith of an application for certificate of authority in the case of a foreign or alien applicant.

(3) Ninety days in the case of an admitted entity requesting authority to change the name under which it will conduct its business with the public in this state.

Except in the case where an applicant has already paid a fee on a pending application for admission, the commissioner shall collect a fifty-eight dollar ($58) fee for filing each application for name approval and reservation. An application for name approval may contain not more than three names in the order of applicant's preference and the commissioner's approval shall be limited to only one name submitted by any one application.

The certificate of approval shall be attached to the articles of incorporation before the Secretary of State shall file such articles or any amended articles. The commissioner may reject any name so submitted when it is an interference with, or too similar to one already appropriated, or when it is likely to mislead the public in any respect. In the event of such a rejection, the applicant shall legally change its name to one approved by the commissioner or, if a foreign or alien insurer, may arrange to conduct any business it may do with the public in California under an approved name as an operating name, identifying itself under both its true name and operating name in the conduct of all official business with the commissioner.

Notwithstanding the provisions of Sections 1282 and 12221, the provisions of this section shall apply to reciprocal insurers, including their attorneys in fact, and shall apply to motor clubs, respectively.

SEC. 3.1. Section 882 of the Insurance Code is amended to read:

882. When two or more insurers propose to issue an underwriter's policy, each insurer shall first file an application with the commissioner for approval and registration of the name or title under which the policy is to be issued. The commissioner may reject any name submitted when it is an interference with, or too similar to, one already appropriated or when it is likely to mislead the public in any respect. In such case the application may be amended to submit another or other names.

The commissioner shall charge and collect in advance a fee of twenty-nine dollars ($29) from each insurer filing an application for approval and registration of such name or title, or for filing any amendment thereto.

SEC. 3.2. Section 900.5 of the Insurance Code is amended to read:

900.5. The commissioner shall charge and collect one hundred eighteen dollars ($118) in advance as a fee for the first filing each year of a statement under this article. Only one such fee shall be charged or collected from any one insurer in any one calendar year.

SEC. 4. Section 924 of the Insurance Code is amended to read:

924. The commissioner shall collect the sum of two hundred ninety-five dollars ($295) from any admitted insurer that fails to make and file in his office within the time prescribed by law any statements or stipulations required by this code. After the first month, he shall also collect an additional penalty of three hundred fifty-four dollars ($354) for each and every month or fractional part of a month thereafter that such insurer continues to transact the business of insurance until such statements and stipulations are filed.

SEC. 5. Section 940.1 of the Insurance Code is amended to read:

940.1. The commissioner shall require the payment of fifty-eight dollars ($58) in lawful money of the United States in advance for receiving and processing securities or deposit schedules for securities deposited pursuant to this article. An additional fee of twenty-nine dollars ($29) shall be payable for each withdrawal, substitution, or any other change in the securities comprising such deposit. There shall be no other or additional fee for attaching the commissioner's

seal to a securities deposit schedule for a deposit under this article.

SEC. 5.1. Section 949 of the Insurance Code is amended to read:

949. The commissioner shall require the payment of twenty-nine dollars ($29) in lawful money of the United States, in advance, as a fee for each certificate issued pursuant to this article.

SEC. 5.2. Section 1011.5 of the Insurance Code is amended to read:

1011.5. The consent described in Section 1011(c) shall be obtained by filing an application with the commissioner in a form to be prescribed by him accompanied by such additional information concerning the insurer, its condition and affairs as the commissioner requires.

A fee of two thousand six hundred fifty-five dollars ($2,655) shall be paid to the commissioner for the filing of the application.

SEC. 6. Section 1076 of the Insurance Code is amended to read:

1076. The withdrawing insurer shall pay to the commissioner a fee of five hundred ninety dollars ($590) for all services and expenses in connection with the withdrawal.

SEC. 6.1. Section 1101 of the Insurance Code is amended to read:

1101. (a) An admitted insurer's officers, directors, trustees and any persons who have authority in the management of the insurer's funds, shall not, unless otherwise provided in this code:

(1) Receive any money or valuable thing for negotiating, procuring, recommending or aiding in, any purchase by or sale to such insurer of any property, or any loan from such insurer.

(2) Be pecuniarily interested as principal, coprincipal, agent, attorney or beneficiary, in any such purchase, sale or loan.

(3) Directly or indirectly purchase, or be interested in the purchase of, any of the assets of the insurer.

(b) This section shall not apply to:

(1) The purchase or exchange of stock of an admitted insurer by an admitted insurer or between admitted insurers nor to any merger, consolidation or corporate reorganization of such insurers, and shall not apply as to such purchase, merger, exchange, consolidation or reorganization, nor to the officers, directors, trustees or any persons having authority in the management of such insurers funds in respect to any such transaction and no such transaction shall be either void or voidable, if:

(i) The transaction is just and reasonable as to the insurers involved at the time it is authorized or approved and if no such officer, director, trustee or other person having authority in the management of such insurers funds receives any money or other valuable thing, other than his usual compensation for his regular duties, for negotiating, procuring, recommending or aiding in such transaction, and, either

(ii) Any interest in such transaction on the part of any officers, directors, trustees, or persons who have authority in the management of any such insurer's funds is disclosed or known to its board of directors or committee, authorizing, approving or ratifying

the transaction, and noted in the minutes thereof, and the board or committee authorizes, approves or ratifies the transaction in good faith by a vote sufficient for the purpose without counting the vote or votes of any interested officers, directors, trustees, or persons who have authority in the management of the funds of any such insurer, or

(iii) The fact of such interest is disclosed or known to the shareholders in the case of a stock insurance company, or in the case of a mutual insurer to the policyholders, and they approve or ratify the transaction in good faith by a vote or written consent of a majority of the shares or policyholders, as the case may be, entitled to vote, unless the consent or vote of more than a majority is otherwise required, in which event the vote or written consent shall be that so otherwise required.

Any such officer, director, trustee, or other person who has such interest may be counted in determining the presence of a quorum at any meeting which authorizes, approves or ratifies such transaction.

(2) Any transaction relating to an insurer if the transaction meets the other requirements of subdivision (b) and such officers, directors, and trustees of the insurer do not in the aggregate own more than 5 percent of the stock of any corporation with which the insurer is entering into a transaction.

(3) Any transaction if prior to its consummation the insurer has applied for and obtained from the commissioner a certificate of exemption in respect to the specific transaction therein described and such transaction is consummated in conformity with such certificate and the representations and disclosures made in or in connection with the application therefor.

(i) To obtain the certificate of exemption the insurer shall file with the commissioner a written application, accompanied by a filing fee of two hundred ninety-five dollars ($295). Such application shall be verified as provided in Section 834, be in such form as the commissioner shall require and shall contain all of the following:

(A) A specific description of the particular transaction for which the certificate is sought.

(B) Copies of all contracts and other legal documents involved or to be involved in the transaction.

(C) A description of all assets involved in the transaction.

(D) The names, titles, capacities and business relationships of all persons in any way involved in the transaction who are connected with the insurer or any of its affiliates, officers, directors, managers, or controlling persons or entities in any of the capacities described in this section.

(E) A description of any and all considerations on either or any side of the transaction.

(F) Evidence that its governing board has specifically authorized the filing of the application.

(G) Such other information, opinions, or matters as the

commissioner may require.

The commissioner may issue such certificate of exemption if he finds, with or without a hearing, that the transaction is fair, just and equitable and not hazardous to policyholders, stockholders or creditors. The commissioner may impose such conditions, including but not limited to disclosure of the circumstances and terms of the transaction either before or after its consummation either publicly or to such persons and entities as he may designate and the approval of the transaction by such persons or entities as he may designate. He may also require that a report of the transaction be filed with him subsequent to its consummation in such form and containing such information as he may prescribe.

The certificate of exemption issued pursuant to paragraph (3) of subdivision (b) shall only exempt the transaction from the prohibitions of this section and shall not affect the rights or remedies of any persons under any other law.

The amendment made to this section at the 1955 General Session shall not apply to contracts, sales, transfers or other transactions entered into prior to the effective date hereof.

The commissioner shall not issue a certificate of exemption under paragraph (3) of subdivision (b) in respect to any transaction consummated prior to the effective date of the amendment made to this section at the 1967 Regular Session.

(c) Whenever it appears to the commissioner that any insurer, or any director, officer, employee, or agent thereof, has committed or is about to commit a violation of this section, the commissioner may apply to the superior court for the county in which the principal office of the insurer is located, or if such insurer has no such office in this state, then to the Superior Court for the County of Los Angeles, or for the City and County of San Francisco, for an order enjoining such insurer, or such director, officer, employee, or agent thereof, from violating or continuing to violate this section, and for such other equitable relief as the nature of the case and the interests of the insurer's policyholders, creditors, and shareholders or the public may require.

SEC. 6.2. Section 1113 of the Insurance Code is amended to read:

1113. For filing application for a permit issued pursuant to this article, the commissioner shall charge and collect the sum of forty-four dollars ($44).

SEC. 6.3. Section 1140.5 of the Insurance Code is amended to read:

1140.5. (a) Notwithstanding any other provision of law, a copy of every form of proxy or written consent or authorization for use at any meeting or proceeding of shareholders or stockholders of any domestic insurer to evidence authority to cast the vote of any shareholder or stockholder, or to record the consent or the authorization of any shareholder or stockholder to any action of the insurer, and a copy of every solicitation, announcement, or advertisement used to obtain, or to influence any shareholder or

stockholder to sign, any proxy, or written consent or authorization shall be filed with the commissioner, accompanied by a filing fee of fifty-eight dollars ($58), by the person intending to use, issue, publish, or circulate such document. No such document shall be used, issued, published, or circulated before a period of 10 days following the date of its filing, or any shorter period as may be designated by the commissioner, has elapsed. Within such 10-day or shorter period the commissioner may disapprove of any document filed with him pursuant to this section, stating his reasons therefor in writing, in which case such document shall not be used, issued, published, or circulated.

(b) Any person who fails to make the filing required by this section and who thereafter uses any document required to be filed, or who uses any such document before it has been filed with the commissioner for the period required, or who uses any such document after receiving written notice that the document has been disapproved by the commissioner is guilty of a misdemeanor. It shall be unlawful to use any proxy or consent obtained in violation of this section; and the superior court of the State of California in and for the county in which is located the principal place of business of such insurer shall have jurisdiction to enforce the provisions of this section and the regulations promulgated pursuant thereto, and to grant appropriate relief upon the verified petition of the commissioner, such domestic insurer or and any of its shareholders or stockholders.

(c) The purposes of this section are: to ensure that the shareholders, stockholders or other persons entitled to vote or give written consents or authorizations are provided with adequate and accurate information regarding the affairs of the insurers in which they have interests, the interests of those soliciting proxies or written consents or authorizations and of those upon whose behalf such solicitations are made, and the matters as to which proxies or written consents or authorizations are solicited; and to prevent fraud or deception in connection with proxies, proxy statements or other proxy solicitations. In furtherance of the purposes of this section the commissioner may make rules and regulations therefor. Such rules and regulations may differ as to different classes and types of insurers.

(d) The provisions of this section shall not apply to any domestic insurer having less than 100 shareholders or stockholders and shall not apply to any domestic insurer if 95 percent or more of its stock is owned or controlled by a parent or an affiliated insurer and the remaining shares of stock are owned by less than 500 shareholders or stockholders. Any domestic insurer which files with the Securities and Exchange Commission forms of proxies, consents and authorizations complying with the requirements of the Securities Exchange Act of 1934 and the amendments thereto and the applicable regulations thereunder, is exempt from the provisions of this section.

SEC. 6.4. Section 1215.2 of the Insurance Code is amended to

read:

1215.2. (a) No person shall make a tender offer for, or a request or invitation for tenders of, or enter into an agreement to exchange securities for or acquire in the open market, any voting security, or any security convertible into a voting security, of a domestic insurer or of any other person controlling a domestic insurer, if such other person is not substantially engaged either directly or through its affiliates in any businesses other than that of insurance, if, as a result of the consummation thereof, such person would, directly or indirectly, acquire control of such insurer, and no person shall enter into an agreement to merge with or otherwise to acquire control of a domestic insurer, unless, at the time copies of the offer or purchase or request or invitation are first published or sent or given to security holders or the agreement or transaction is entered into, as the case may be, such person has filed with the commissioner, and has sent to such insurer, a statement containing such of the following information, and such additional information, as the commissioner may by rule or regulation prescribe as necessary or appropriate in the public interest or for the protection of policyholders or shareholders:

(1) The background and identity of all persons by whom or on whose behalf the purchases or the exchange, merger, or other acquisition of control are to be effected;

(2) The source and amount of the funds or other consideration used or to be used in making the purchases or in effecting the exchange, merger, or other acquisition of control, and, if any part of such funds or other consideration has been or is to be borrowed or otherwise obtained for the purpose of making the purchases or effecting the exchange, merger, or other acquisition of control, a description of the transaction and the names of the parties thereto. However, where a source of funds is a loan made in the lender's ordinary course of business, if the person filing such statement so requests, the name of the lender shall not be made available to the public;

(3) Any plans or proposals which such persons may have to liquidate such insurer, to sell its assets or merge it with any person, or to make any other major change in its business or corporate structure or management;

(4) The amount of each class of voting securities or securities which may be converted into voting securities of such insurer or such controlling person which are beneficially owned, and the amount of each class of voting securities or securities which may be converted into voting securities of such insurer or such controlling person concerning which there is a right to acquire beneficial ownership, by each such person and by each affiliate of each such person, together with the name and address of each such affiliate;

(5) Information as to any contracts, arrangements, or understandings with any person with respect to any securities of such insurer or such controlling person, including, but not limited to,

transfer of any of the securities, joint ventures, loan or option arrangements, puts or calls, guarantees of loans, guarantees against loss or guarantees of profits, division of losses or profits, or the giving or withholding of proxies, naming the persons with whom such contracts, arrangements, or understandings have been entered into, and giving the details thereof.

All requests or invitations for tenders or advertisements making a tender offer or requesting or inviting tenders of such voting securities of such insurer or such controlling person made by or on behalf of any such person, and a copy of any such agreement to exchange or otherwise acquire securities or to merge with or otherwise to acquire control of such insurer, shall be filed with the commissioner and sent to such insurer as a part of such statement and shall contain such of the information contained in such statement as the commissioner may by rule or regulation prescribe. Copies of any additional material soliciting or requesting such tender offers subsequent to the initial solicitation or request, and copies of any amendment to any such agreement, shall contain such information as the commissioner may by rule or regulation prescribe as necessary or appropriate in the public interest or for the protection of policyholders or shareholders, and shall be filed with the commissioner and sent to such insurer not later than the time copies of such material are first published or sent or given to security holders or such amendment is entered into.

(b) If the person required to file the statement referred to in subdivision (a) of this section is a partnership, limited partnership, syndicate, or other group, the commissioner may require that the information called for by paragraphs (1) to (5), inclusive, of subdivision (a) shall be given with respect to: (1) each partner of such partnership or limited partnership, (2) each member of such syndicate or group, and (3) each person who controls such partner or member. If a person referred to in (1), (2), or (3) of this subdivision is a corporation or the person required to file the statement referred to in subdivision (a) is a corporation, the commissioner may require that the information called for by paragraphs (1) to (5), inclusive, of subdivision (a) shall be given with respect to such corporation and each officer and director of such corporation and each person who is directly or indirectly the beneficial owner of more than 10 percent of the outstanding voting securities of such corporation.

(c) If any tender offer, request, or invitation for tenders, or agreement to exchange or otherwise acquire securities or to merge or otherwise acquire control referred to in subdivision (a) of this section, is proposed to be made by means of a registration statement under the federal Securities Act of 1933, or in circumstances requiring the disclosure of similar information under the federal Securities Exchange Act of 1934, or under a state law requiring similar registration or disclosure, the person required to file the statement referred to in subdivision (a) may file that registration

statement with the commissioner as full satisfaction of the requirement in subdivision (a).

(d) The purchases, exchanges, mergers, or other acquisitions of control referred to in subdivision (a) of this section may not be made until the commissioner either approves the purchases, exchanges, mergers, or other acquisitions of control within 60 days after the statement required by subdivision (a) has been filed with him or fails to disapprove such purchases, exchanges, mergers, or other acquisitions of control within such 60-day period. The commissioner may disapprove any such transaction within such 60-day period if he finds any of the following:

(1) After the change of control the domestic insurer referred to in subdivision (a) could not satisfy the requirements for the issuance of a license to write the line or lines of insurance for which it is presently licensed;

(2) The purchases, exchanges, mergers, or other acquisitions of control would substantially lessen competition in insurance in this state or create a monopoly therein;

(3) The financial condition of an acquiring person is such as might jeopardize the financial stability of the insurer, or prejudice the interests of its policyholders;

(4) The plans or proposals which the acquiring person has to liquidate the insurer, to sell its assets, or to merge it with any person, or to make any other major change in its business or corporate structure or management, are not fair and reasonable to policyholders;

(5) The competence, experience, and integrity of those persons who would control the operation of the insurer indicate that it would not be in the interest of policyholders, or the public to permit them to do so.

(e) The commissioner shall require the payment of two thousand three hundred sixty dollars ($2,360) as a fee for filing an application under this section, the amount to accompany the application.

(f) The provisions of this section shall not apply to any offer for or request or invitation for tenders of any voting securities, or any agreement to exchange securities for or otherwise acquire control, if, and to the extent that, the commissioner, by rule or regulation or by order, shall exempt the same from the provisions of this section as not comprehended within the purposes thereof.

SEC. 7. Section 1215.4 of the Insurance Code is amended to read:

1215.4. (a) Every insurer which is authorized to do business in this state and which is a member of an insurance holding company system shall register with the commissioner, except a foreign insurer subject to disclosure requirements and standards adopted by statute or regulation in the jurisdiction of its domicile which are substantially similar to those contained in this section. Such exemption from registration for such foreign insurers shall not apply to any commercially domiciled insurer within this state, as provided in Section 1215.13. Any insurer which is subject to registration under

this section shall register within 60 days after the effective date of this article or 15 days after it becomes subject to registration, whichever is later, unless the commissioner for good cause shown extends the time for registration, and then within such extended time. The commissioner may require a holding company system which is not subject to registration under this section to furnish a copy of the registration statement or other information filed by such insurance company with the insurance regulatory authority of domiciliary jurisdiction.

(b) Every insurer subject to registration shall file a registration statement on a form provided by the commissioner, which shall contain current information about the following:

(1) The capital structure, general financial condition, ownership, and management of the insurer and any person controlling such insurer;

(2) The following agreements in force, relationships subsisting, and transactions currently outstanding between such insurer and its affiliates:

(i) Loans, other investments, or purchases, sales, or exchanges of securities of the affiliates by the insurer or of the insurer by its affiliates;

(ii) Purchases, sales, or exchanges of assets;

(iii) Transactions not in the ordinary course of business;

(iv) Guarantees or undertakings for the benefit of an affiliate which result in an actual contingent exposure of the insurer's assets to liability, other than insurance contracts entered into in the ordinary course of the insurer's business;

(v) All management and service contracts and all cost-sharing arrangements, other than cost-allocation arrangements based upon generally accepted accounting principles;

(vi) Reinsurance agreements covering all or substantially all of one or more lines of insurance of the ceding company.

(3) Other matters as may be included in registration forms adopted by the National Association of Insurance Commissioners, to the extent required by the commissioner.

(c) No information need be disclosed on the registration statement filed pursuant to subdivision (b) of this section if such information is not material for the purposes of this article.

(1) Unless the commissioner by rule, regulation, or order provides otherwise, sales, purchases, exchanges, loans or extensions of credit, or investments made within the immediately preceding 12 months involving, in the net aggregate, one-half of 1 percent or less of an insurer's admitted assets, or 5 percent or less of an insurer's surplus as to policyholders, determined by whichever is greater, as of the 31st day of December next preceding, shall not be deemed material for purposes of this section.

(2) Unless the commissioner by rule, regulation, or order provides otherwise, sales, purchases, exchanges, loans or extensions of credit, or investments made within the immediately preceding 12 months

involving in the net aggregate more than either 5 percent of the insurer's admitted assets or 25 percent of the insurer's surplus as to policyholders, determined by whichever is the lesser, as of the 31st day of December next preceding shall be deemed material transactions of an extraordinary type.

(d) Each registered insurer shall keep current the information required to be disclosed in its registration statement by reporting all material changes or additions on amendment forms provided by the commissioner within 15 days after the end of the month in which it learns of each such change or addition. However, subject to this subdivision, each registered insurer shall so report all dividends and other distributions to shareholders promptly upon the declaration thereof. Material transactions which are of the extraordinary type, as defined in paragraph (2) of subdivision (c), shall not be consummated without prior approval of the commissioner. The commissioner shall require the payment of one thousand one hundred eighty dollars ($1,180) as a fee for the approval of the forms filed pursuant to this subdivision. The payment shall accompany the filing of the form.

(e) The commissioner shall terminate the registration of any insurer which demonstrates that it no longer is a member of an insurance holding company system.

(f) The commissioner may require or allow two or more affiliated insurers subject to registration hereunder to file a consolidated registration statement or consolidated reports amending their consolidated registration statement or their individual registration statements.

(g) The commissioner may allow any insurer which is authorized to do business in this state and which is part of an insurance holding company system to register on behalf of any affiliated insurer which is required to register under subdivision (a) of this section and to file all information and material required to be filed under this article.

(h) The provisions of this section shall not apply to any insurer, information, or transaction if and to the extent that the commissioner by rule, regulation, or order shall exempt the same from the provisions of this section as not comprehended within the purposes of this section.

(i) Any person may file with the commissioner a disclaimer of affiliation with any authorized insurer or such a disclaimer may be filed by such insurer or any member of an insurance holding company system. The disclaimer shall fully disclose all material relationships and bases for affiliation between such person and such insurer, as well as the basis for disclaiming such affiliation. After a disclaimer has been filed, the insurer shall be relieved of any duty to register or report under this section which may arise out of the insurer's relationship with such person unless and until the commissioner disallows such a disclaimer. The commissioner shall disallow such a disclaimer only after furnishing all parties in interest with notice and opportunity to be heard and after making specific

findings of fact to support such disallowance.

(j) The failure to file a registration statement or any amendment thereto required by this section within the time specified for such filing shall be a violation of this article.

SEC. 8. Section 1401.5 of the Insurance Code is amended to read:

1401.5. (a) When the commissioner finds after a public hearing that a reciprocal or interinsurance exchange has at all times during any consecutive five-year period terminating on December 31, 1964, or on the last day of any subsequent calendar year, as shown by its annual statements, as filed or as adjusted by the commissioner, as the case may be, maintained a surplus of admitted assets over all liabilities of at least three million dollars ($3,000,000) the commissioner may make an order that such reciprocal or interinsurance exchange need not obtain the certificate provided in Section 1401 and that its subscribers shall thereafter in perpetuity have no liability for assessment on policies issued or renewed at any time after such order becomes final or may, if the reciprocal desires not to become nonassessable, issue a certificate of capability to reinsure. To request such an order such reciprocal or interinsurance exchange shall file a petition with the commissioner, on a form prescribed by the commissioner. The filing fee for such a petition shall be two hundred thirty-six dollars ($236). The commissioner shall give notice of such hearing in the insurance press and in such other ways as he deems advisable and to the extent he deems advisable. Such an order is subject to the provisions of Section 12940 and any person with sufficient relevant interest shall be authorized to bring any permitted action thereunder.

(b) When any such order of the commissioner becomes final any domestic reciprocal or interinsurance exchange obtaining such an order shall no longer be subject to or entitled to the benefits of: subdivision (c) of Section 1307, subdivisions (b) and (c) of Section 1374, and Article 6 (commencing with Section 1390) of this chapter.

(c) At such time as all reciprocal or interinsurance exchanges conducting insurance business in this state are by law governed for all purposes as to required minimum surplus (including that for admission, amendment of certificate of authority and solvency) by the same standards for minimum paid-in capital and surplus as are then applicable to capital stock insurers, any domestic reciprocal or interinsurance exchange may obtain the order provided in subdivision (a), subject to the provisions in subdivision (a) by showing that it has maintained such minimum paid-in capital and surplus requirement applicable to capital stock insurers for at least five consecutive years in lieu of the three million dollars ($3,000,000) surplus prescribed in subdivision (a).

(d) If the power of attorney or any policy of any domestic reciprocal or interinsurance exchange obtaining the order provided by subdivision (a) contains language directly or indirectly creating a liability for assessment, in respect to policies issued prior to or issued after such an order becomes final such power of attorney and

all such policies shall be deemed in law to have been amended to delete and repeal any and all such assessment provisions as of the date such order becomes final without any further action on the part of such a reciprocal or interinsurance exchange, its subscribers, its attorney in fact or the body exercising the subscriber's rights.

SEC. 8.1. Section 1590 of the Insurance Code is amended to read:

1590. The commissioner shall require the payment of twenty-nine dollars ($29) in lawful money of the United States, in advance, as a fee for filing a certificate of deposit of securities under this article.

SEC. 8.2. Section 1599 of the Insurance Code is amended to read:

1599. The commissioner shall require the payment of twelve dollars ($12) in lawful money of the United States, in advance, as a fee for filing each certificate of a trustee required to be filed by Section 1592.

SEC. 8.3. Section 1601 of the Insurance Code is amended to read:

1601. No fee shall be charged, except as included in the application for certificate of authority fee provided by Article 3 (commencing with Section 699) of Chapter 1 of this part, for filing the initial appointment under this article by an applicant for admission. Thereafter the commissioner shall require the payment of twenty-nine dollars ($29) in lawful money of the United States in advance as a fee for filing appointment of agent or stipulation or both by every admitted foreign or alien insurer, under this article.

SEC. 8.4. Section 1629 of the Insurance Code is repealed.

SEC. 8.5. Section 1629 is added to the Insurance Code, to read:

1629. "License year" as used in this chapter shall be determined for each entity as follows:

(a) Upon initial licensing, the license year starts on the date the license is issued.

(b) Subsequently, each license year starts the first day of the month following the month in which the initial license was issued.

(c) A license year ends the following calendar year on the last calendar day of the month in which the initial license was issued.

SEC. 8.6. Section 1630 of the Insurance Code is repealed.

SEC. 8.7. Section 1630 is added to the Insurance Code, to read:

1630. "License term" as used in this chapter means all of that two-year period beginning as described in subdivision (a) or (b) of Section 1629, as applicable, and ending the second succeeding year on the last calendar day of the month in which the initial license was issued.

SEC. 8.8. Section 1650 of the Insurance Code is amended to read:

1650. Every license issued under this chapter shall state thereon all the following:

(a) The name of the licensee.

(b) The capacity in which he or she is licensed to act.

(c) The conditions, if any, subject to which the license is issued.

(d) The effective date and expiration date of the license.

(e) If issued to an organization, the name of each natural person

who is qualified to be named thereon pursuant to the provisions of Section 1628.

SEC. 8.9. Section 1717.5 of the Insurance Code is amended to read:

1717.5. Notwithstanding any other provision of this article, the commissioner shall institute year-round licensing of production agency licensees commencing with those license renewals taking place in 1986.

SEC. 9. Section 1718 of the Insurance Code is amended to read:

1718. (a) Not less than 60 days before a permanent license will expire, the commissioner may mail, to the latest address appearing on his records, an application to the licensee to renew the license for the appropriate succeeding license term. It is the licensee's responsibility to renew whether or not a renewal notice is received. The commissioner may accept a late renewal, provided the licensee's failure to comply is due to clerical error or inadvertence on the part of the department.

(b) Application for renewal of a license may be filed on or before the expiration date. When filed under this subdivision, the fee for filing shall be as specified in Section 1750.

(c) The application for renewal of an expired license may be filed after the expiration date and until that same month and day of the next succeeding year. The fee for a renewal application under this subdivision shall be the fee specified in subdivision (b) and a delinquent fee in the amount specified for a one-year period in Section 1750 for such filing. Each individual licensee, and each natural person so named to transact insurance for an organization, shall be subject to payment of delinquent fees under this section.

SEC. 9.1. Section 1719 of the Insurance Code is amended to read:

1719. The commissioner shall not issue any permanent license within 30 days prior to the expiration date on record for a previously licensed entity unless the person shall have also filed an application for renewal of the license for that license year or term directly following the expiration date to which the application for renewal relates and shall have paid the fee for filing specified in Section 1750. As to the filing of the renewal application, the provisions of Section 1718 shall not be applicable.

SEC. 9.2. Section 1750 of the Insurance Code is amended to read:

1750. The commissioner shall require in advance as a fee for filing application for the hereinafter designated licenses, renewals thereof, or changes in outstanding licenses, an amount calculated as set forth herein. The fee is determined by multiplying the number of natural persons to be licensed or to be named on or added to the license by the amounts specified as to each such license multiplied by the number of license years in the period of the license applied for or the remaining period of an existing license counting any initial fractional license year of such period as one year for such purpose, as follows:

(a) Insurance agent, twenty-nine dollars ($29).

(b) Insurance broker, forty-two dollars ($42).

(c) Insurance solicitor, twenty-one dollars ($21).
(d) Life agent, resident, twenty-nine dollars ($29).
(e) Life agent, nonresident, thirty-four dollars ($34).
(f) Variable contract agent, thirty-six dollars ($36).

SEC. 10. Section 1751 of the Insurance Code is amended to read:

1751. The commissioner shall require, in advance, a fee for filing the following documents:

(a) Application for registration of change in membership of a copartnership licensed as any of the following:
(1) Insurance agent, twenty-nine dollars ($29).
(2) Insurance broker, forty-two dollars ($42).
(3) Life agent, resident, twenty-nine dollars ($29).
(4) Life agent, nonresident, thirty-four dollars ($34).

(b) Application for endorsement removing from any life agent's, insurance agent's or insurance broker's license issued to an organization the name of any natural person named thereon, six dollars ($6).

(c) First amendment to an application, six dollars ($6); a second and each subsequent amendment to an application, twelve dollars ($12).

(d) Original application to be given the qualifying examination for a license of a fire and casualty licensee, twenty dollars ($20) for each person to be examined.

(e) Original application to be given the qualifying examination for a license of a life licensee, or a license as a variable contract agent, twenty dollars ($20) for each person to be examined.

(f) Application for reexamination for any of the licenses mentioned in this section, twenty dollars ($20) for each person to be reexamined.

(g) Application which includes a request for a certificate of convenience pursuant to Article 8 (commencing with Section 1685), fifteen dollars ($15) in addition to, and not in lieu of, fees otherwise required.

(h) Application or request for approval of true or fictitious name pursuant to Section 1724.5 twenty-three dollars ($23), except that there shall be no fee when the name is contained in an original application.

(i) "A ratification of appointments of agents" whereby the surviving insurer in a merger or consolidation assumes responsibility for all agents then lawfully appointed for one of the constituent insurers and makes each its agent, seventy-seven dollars ($77).

(j) An application or request for approval of:

(1) A training course pursuant to Section 1691, except when filed by a degree-conferring college or university, a public educational institution, or by a private nonprofit educational institution, seventy-seven dollars ($77).

(2) An arrangement whereby an insurer may qualify certificate of convenience holders pursuant to Section 1691 by means of an approved course given on the insurer's behalf by a school or

organization other than itself, forty-one dollars ($41).

(k) A bond, pursuant to Article 5 (commencing with Section 1662) or Section 1760.5 or 1765, except when the bond constitutes part of an original application filing, twelve dollars ($12).

(*l*) An application or request for a copy of, or a duplicate license, issued pursuant to Chapter 5 (commencing with Section 1621), 6 (commencing with Section 1760), 7 (commencing with Section 1800), or 8 (commencing with Section 1831) or Sections 12280 and 12280.2, twelve dollars ($12).

(m) An application or request for clearance and cancellation notice of a current licensee of record, twelve dollars ($12).

(n) An amended action notice pursuant to subdivision (e) of Section 1704, three dollars ($3).

SEC. 11. Section 1751.3 of the Insurance Code is amended to read:

1751.3. The commissioner shall require twelve dollars ($12) in advance as a fee for filing each notice of appointment or each notice of termination pursuant to Section 1707 of any of the following:

(a) An insurance agent.

(b) A life agent.

(c) A travel insurance agent.

(d) An insurance solicitor.

SEC. 12. Section 1755 of the Insurance Code is amended to read:

1755. Such license shall be applied for and renewed in the same manner as is provided in this chapter for a licensee to act as an insurance agent, except that an applicant for a limited license as a travel insurance agent need not pass a qualifying examination, and that the fee for filing an application shall be twelve dollars ($12) for each year or fraction thereof in the term of the license applied for.

SEC. 13. Section 1765 of the Insurance Code is amended to read:

1765. (a) A license under this chapter shall be applied for and renewed by the filing with the commissioner of a written application therefor, in accordance with the provisions of Section 1652.

(b) Subject to subdivision (f) of this section, the commissioner shall issue a license authorizing any applicant who is trustworthy and competent to transact an insurance brokerage business in such manner as to safeguard the interest of the insured, to act as a surplus line broker from the date of the license until the expiration date specified in Section 1630.

(c) An applicant for a surplus line broker's license shall, as part of the application and a condition of the issuance of the license, file a bond to the people of the State of California in the sum of fifty thousand dollars ($50,000), conditioned that the licensee will fully and faithfully comply with the requirements of this chapter, and all applicable provisions of this code. The bond shall be subject to the provisions of Sections 1662 and 1663.

(d) The filing fee for a license to act as a surplus line broker, and naming up to two natural persons on the license, shall be two hundred ninety-five dollars ($295) per year, or for any initial

fractional license year. If more than two natural persons are named on the license, an additional fee of eighty-three dollars ($83) per year, or for any initial fractional license year, shall be paid for each additional natural person named on the license.

(e) Such license shall be renewed in accordance with and subject to, the provisions of Sections 1717, 1718, 1719, and 1720.

(f) The commissioner may deny, suspend or revoke any license applied for or granted pursuant to this chapter on all or any one of the grounds and in accordance with the procedures provided in Article 6 (commencing with Section 1666) and Article 13 (commencing with Section 1737) of Chapter 5, whenever the commissioner finds that the applicant or licensee has committed a violation of any provision of this code.

SEC. 14. Section 1811 of the Insurance Code is amended to read:

1811. For his services in connection with the filing of any application or request for any license under this chapter, the commissioner shall charge and collect the following fees:

(a) For filing an application or request for bail agent's license, one hundred eighteen dollars ($118).

(b) For filing an application or request for bail solicitor's license, one hundred eighteen dollars ($118).

(c) For filing an application or request for bail permittee's license, two hundred thirty-six dollars ($236).

(d) For filing an application for examination, or reexamination twenty-four dollars ($24).

(e) For filing each annual notice of intention to keep a bail agent's license in force or a renewal application, a fee of thirty-five dollars ($35). In the case of a bail agent with more than one valid notice of appointment on file, the fee to be charged pursuant to this subsection shall be the fee provided herein multiplied by the number of insurers whose valid appointments are on file at the date such document is filed unless such bail agent in such document advises the commissioner of his intent to terminate the appointment of one or more such insurers, in which event the fee shall be based upon the number for insurers remaining.

(f) For filing each renewal notice of intention to keep a bail solicitor's license in force or a renewal application, a fee of thirty-five dollars ($35).

(g) For filing each renewal notice of intention to keep a bail permittee's license in force or a renewal application, a fee of one hundred forty-eight dollars ($148).

(h) At the time of filing an application for a license, if a qualifying examination is required for issue or in connection with such license, the fee for filing the first application to take the qualifying examination shall be paid at the time of filing application for the license.

(i) For filing application or request for approval of a true or fictitious name pursuant to Section 1724.5, twelve dollars ($12), except that there shall be no fee when such name is contained in an

original application.

(j) For filing a bond required by this chapter, except when such bond constitutes part of an original application, ten dollars ($10).

(k) For filing a first amendment to an application, six dollars ($6).

(*l*) For filing a second and each subsequent amendment to an application, twelve dollars ($12).

SEC. 14.1. 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 eighteen dollars ($118). 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-nine dollars ($59) 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. 15. Section 1854 of the Insurance Code is amended to read:

1854. No rating organization shall conduct its operations in this state without first filing with the commissioner a written application for and securing a license to act as a rating organization. Any rating organization may make application for and obtain a license as a rating organization if it shall meet the requirements for license set forth in this chapter. Every such rating organization shall file with its application (a) a copy of its constitution, its articles of incorporation, agreement or association, and of its bylaws, rules and regulations governing the conduct of its business, all duly certified by the custodian of the originals thereof, (b) a list of its members and subscribers, (c) the name and address of a resident of this state upon whom notices or orders of the commissioner or process affecting such rating organization may be served, and (d) a statement of its qualifications as a rating organization.

The fee for filing an application for license as a rating organization is one hundred seventy-seven dollars ($177) lawful money of the

United States, payable in advance to the commissioner.

SEC. 15.1. Section 1854.25 of the Insurance Code is amended to read:

1854.25. Notwithstanding the provision of Section 1854.2, each rating organization possessing a license of indefinite term pursuant to such section shall owe and pay to the commissioner an annual fee of one hundred seventy-seven dollars ($177) in lawful money of the United States in advance on account of such license until its final termination. Such fee shall be for periods commencing on July 1, 1964, and on each July 1st thereafter and ending on June 30, 1965, and each June 30th thereafter, and shall be due and payable on March 1, 1964, and on each March 1st thereafter and shall be delinquent on April 1, 1964, and each April 1st thereafter.

SEC. 15.2. Section 4060 of the Insurance Code is amended to read:

4060. A domestic mutual insurer while maintaining unimpaired surplus funds not less in amount than one and one-half times the minimum paid-in capital stock required of a domestic stock insurer formed under this code for authority to transact the same class or classes of insurance, may, upon receipt of the commissioner's certificate so authorizing, extinguish the contingent liability to assessment of its members as to all its policies in force and may omit provisions imposing contingent liability in all policies currently issued. A fee of one hundred eighteen dollars ($118) shall accompany any application for such a certificate.

SEC. 15.3. Section 5051 of the Insurance Code is amended to read:

5051. Upon the payment in advance of two thousand nine hundred fifty dollars ($2,950) cash, lawful money of the United States, to the commissioner for all services to be rendered by him in the matter of organization of the insurer, such persons shall file with the commissioner a declaration of their intention to incorporate for the purposes expressed in Section 5050. The declaration shall be signed by all of such persons, and shall contain a copy of the articles of incorporation proposed to be adopted.

SEC. 16. Section 7015.5 of the Insurance Code is amended to read:

7015.5. The commissioner shall charge and collect in advance a fee of seventy-four dollars ($74) for issuing a certificate under this article, or for reissuing and amending or changing an obsolete certificate at the request of an insurer.

SEC. 16.1. Section 7042 of the Insurance Code is amended to read:

7042. If the vote is in the affirmative a certified copy of all proceedings relating to the proposed merger shall be filed with the commissioner. If the commissioner finds that the proceedings have been in accordance with the law and his requirements he shall issue his certificate approving the plan and agreement and the merger shall become effective when such certificate, the agreement and any

other documents required by law have been filed with the Secretary of State.

The fee for issuing such certificate approving the merger shall be two hundred seven dollars ($207) lawful money of the United States for the original certificate, payable in advance, with the filing of the first merger papers with the commissioner; six dollars ($6) shall be charged for each signed and sealed or certified copy thereof issued as part of the same transaction in which the original certificate is issued.

SEC. 16.2. Section 9098 of the Insurance Code is amended to read:

9098. The plan and agreement by which any such transaction permitted by Section 9097 is to be effected shall be approved by the board of directors or other governing body of such organization or association and submitted to the commissioner accompanied by an application for approval thereof and a fee of two hundred seven dollars ($207).

SEC. 16.3. Section 10400 of the Insurance Code is amended to read:

10400. Any person willfully violating any provision of this chapter or order of the commissioner made in accordance therewith shall forfeit to the people of this state a sum not to exceed one hundred eighteen dollars ($118) for each such violation, which sum may be recovered by civil action. The commissioner may also suspend or revoke the license of an insurer or agent for any such willful violation.

SEC. 16.4. Section 10479.5 of the Insurance Code is amended to read:

10479.5. When the commissioner has valued the reserve liabilities of an insurer as provided by this article, he may upon request of the insurer issue his official certificate or certificates describing the reserve liability and the valuation thereof as he has determined. For issuing an original certificate, the commissioner shall require, in advance, a fixed fee of eighteen dollars ($18) in lawful money of the United States, plus the actual cost to the Insurance Department of making the valuation on which the certificate is based including, but not limited to, the aggregate salaries computed on an hourly basis for the time actually spent thereon by all of the department personnel.

SEC. 16.5. Section 10493 of the Insurance Code is amended to read:

10493. Any incorporated or unincorporated benefit and relief association organized before January 15, 1951, may procure a certificate of exemption from the commissioner if it complies with all of the following:

(a) All of the other requirements of this article.

(b) As respects life or disability or life and disability insurance transacted by it, it is of an entirely nonprofit nature.

(c) Any one of the following requirements as to membership and purpose:

(1) It is composed of and its membership limited to the appointive officers and employees of a public school district or districts and/or the pupils of any such district or districts, or of any private school or schools.

(2) It is composed of and its membership limited to the appointive officers and employees of a municipal playground system, or the systems of two or more municipalities united in a league, federation or other association for the purpose of promoting intercity competitions or other activities, and/or the participants in dancing, recreational, sporting, educational, social and/or theatrical activities sponsored and/or directed by such system or systems and carried on through the use of any of the facilities of such system or systems.

(3) Its membership in this state is 1,000 or more and it is either an organization of a purely religious or benevolent character or its membership is limited to the members of such an organization.

(4) It is composed of and its membership is limited to the members of another organization which other organization is of a purely religious or benevolent character and has a total membership in this state of not less than 1,000.

(5) It is a domestic organization, lodge, society or order which prior to September 19, 1947, provided life or disability benefits or both such benefits to its members and

(A) Is of a charitable, benevolent or beneficent character or becomes such within one year from September 4, 1951, and in both instances is thereafter of such character, and

(B) Operates in such a manner that the payment of such benefits even though it be one of the express purposes of such organization, lodge or order, is as a matter of fact incidental to its charitable, benevolent or beneficent purposes or within one year from September 4, 1951, operates in such a manner and in both instances thereafter operates in such a manner.

(6) Officers and employees of a common employer, and related dependents of such officers and employees, comprising wives, husbands and unmarried dependent children under 19 years of age, and living in the same household.

(d) Pays a filing fee in the amount of seven hundred eight dollars ($708).

SEC. 17. Section 10506.1 of the Insurance Code is amended to read:

10506.1. The commissioner shall require the payment of three hundred fifty-four dollars ($354) in lawful money of the United States as a fee for the determination of qualification required by Section 10506. Upon completion of the determination of qualification, and, whether authorization to issue contracts providing variable benefits is granted or denied, the commissioner shall require the payment by domestic insurers of such additional amounts from the requesting domestic insurer as may be necessary to defray all administrative costs in excess of three hundred fifty-four dollars ($354) incurred by the commissioner in making such determination.

SEC. 17.5. Section 10506.2 of the Insurance Code is amended to read:

10506.2. (a) The commissioner shall require the payment in advance of one thousand one hundred eighty dollars ($1,180) as a fee for the examination and analysis of documents required by law to be filed with the commissioner by domestic or foreign insurers in connection with changes to an application and qualification to write variable contracts.

(b) The commissioner shall require the payment in advance of three hundred fifty-four dollars ($354) as a fee for the review, examination, and analysis of documents required to be filed by insurers issuing variable life insurance policies.

(c) The commissioner shall require the payment in advance of one thousand seven hundred seventy dollars ($1,770) as a fee for the examination and analysis involved in approving transfers of assets pursuant to subdivision (f) of Section 10506.

SEC. 18. Section 11019 of the Insurance Code is amended to read:

11019. No domestic society shall consolidate or merge with any other society unless it files with the commissioner the papers and evidence specified in this section and pays the sum of one hundred sixty-two dollars ($162) in lawful money of the United States to the commissioner in advance as a filing fee therefor. The papers and evidence herein required to be filed with the commissioner in such instance are:

(a) A certified copy of the written contract containing in full the terms and conditions of the consolidation or merger;

(b) A sworn statement by the president and secretary or corresponding officers of each society showing the financial condition thereof on a date not earlier than December 31, next preceding the date of the contract;

(c) A certificate of such officers, duly verified by their respective oaths, that the consolidation or merger has been approved by a two-thirds vote of the supreme legislative or governing body of each society; and

(d) Evidence that at least 60 days prior to the action of the supreme legislative or governing body of each society, the text of the contract has been furnished to all members of the society by being sent by mail or by being published in full in the official organ of the society and the issue containing the text of the contract being mailed to each member of the society.

SEC. 18.5. Section 11090 of the Insurance Code is amended to read:

11090. Subject to the annual fee provisions as provided herein, every certificate of authority issued to a fraternal benefit society shall be for an indefinite term and shall expire with the expiration or termination of the corporate existence of the holder thereof unless sooner revoked by the commissioner. The commissioner shall require the payment of two thousand nine hundred fifty dollars ($2,950) in lawful money of the United States, in advance as a fee for

filing an application for each original certificate of authority authorizing any fraternal benefit society to transact insurance in this state. Each society possessing a certificate of authority of indefinite term shall owe and pay an annual fee of one hundred seventy-seven dollars ($177) in lawful money of the United States in advance on account of such certificate until its final expiration or revocation. Such fee shall be for annual periods commencing on July 1st of each year, and ending on June 30th of each year, and shall be due on each March 1st and shall be delinquent on and after each April 1st. A duly certified copy or duplicate of such certificate of authority shall be prima facie evidence that the holder is a fraternal benefit society within the meaning of this chapter.

SEC. 19. Section 11401 of the Insurance Code is amended to read:

11401. Such an association shall not operate or do business in this state without a certificate of authority. The commissioner shall issue a certificate of authority to any such association unless he determines, after examination, that it does not comply with the provisions of this chapter. The filing fee for the application for the certificate of authority shall be five hundred ninety dollars ($590).

SEC. 20. Section 11504 of the Insurance Code is amended to read:

11504. No corporation shall establish, maintain or operate a nonprofit service plan as authorized by the provisions of this chapter unless it shall first have procured a certificate of authority from the Insurance Commissioner of this state for the establishment, maintenance and operation of said hospital service plan. The filing fee for an application for a certificate of authority shall be four thousand seven hundred twenty dollars ($4,720).

SEC. 21. Section 11509 of the Insurance Code is amended to read:

11509. Every corporation subject to the provisions of this chapter shall annually, on or before the first day of March, file in the office of the commissioner a statement verified by at least two of the principal officers of the corporation, showing its condition and affairs as of the 31st day of December then next preceding, which shall be in such form as shall be required by the commissioner and shall contain statements relative to the matters required to be established as a condition precedent to maintaining or operating a nonprofit hospital service plan and to other matters as the commissioner shall prescribe.

Commencing with the annual statement to be filed on or before March 1, 1969, the commissioner shall require the payment of a fee for filing such statement. Such fee shall be in an amount estimated by the commissioner as the filing corporation's proportionate share of the costs of the department in administering the provisions of this chapter in that calendar year with respect to the operations of all corporations required to file an annual statement. In making the estimate of such costs the commissioner shall take into account all other fees and charges, except those for examinations and agents, paid or to be payable to the department in such calendar year by such corporations and shall, on or before the first day of February,

certify to each such corporation holding a certificate of authority under Section 11504, the amount of the fee to be paid by it pursuant to this section. The total amount of fees and charges, except charges payable in connection with examinations made pursuant to Section 736 and agents' license fees, whether imposed by this section or otherwise, to be collected by the commissioner from corporations subject to this chapter shall not exceed for any calendar year an amount equal to seven cents ($0.07) for each individual or family unit shown as covered by a hospital service contract in the annual statements filed under this section for the preceding calendar year.

The Legislature finds the accounts between the corporations subject to this chapter and the commissioner concerning the fees due under this section have not yet been settled for the calendar year 1969 or any subsequent period of time. For the calendar year 1969 and all subsequent calendar years the amounts of fees payable under this section shall be those prescribed by the wording of this section as amended at the 1970 Regular Session of the Legislature.

SEC. 21.5. Section 11520.5 of the Insurance Code is amended to read:

11520.5. No person shall transact in this state the business described in this chapter without first procuring a certificate of authority from the commissioner for such purpose. Application for such certificate shall be made on a form prescribed by the commissioner accompanied by a filing fee of one thousand seven hundred seventy dollars ($1,770). Such certificate shall not be granted until the applicant conforms to the requirements of this chapter and the laws of this state prerequisite to its issue. After such issue the holder shall continue to comply with the requirements of this chapter and the laws of this state. Where a hearing is held under this section the proceedings shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1, Division 3, Title 2 of the Government Code, and the commissioner shall have all of the powers granted therein.

Subject to the annual fee provisions herein, every certificate of authority issued or held under this chapter shall be for an indefinite term and, unless sooner revoked by the commissioner, shall terminate upon occurrence of any of the following:

(a) Upon the holder's ceasing to exist as a separate entity.

(b) Upon the winding up or dissolution, or expiration or forfeiture of the corporate existence of a corporate holder thereof.

(c) Upon winding up or dissolution of a holder not a corporation.

(d) In any event upon surrender by the holder of its certificate of authority and cancellation of the same by the commissioner.

The commissioner shall not cancel a surrendered certificate of authority until he is satisfied by examination, or otherwise, that the former holder has discharged its annuity liabilities to residents of this state or satisfactorily reinsured the same.

Notwithstanding the preceding provisions for a certificate of authority of indefinite term, each holder of a certificate of authority

under this chapter shall owe and pay in advance to the commissioner in lawful money of the United States an annual fee of fifty-eight dollars ($58) on account of such certificate of authority until its final termination or revocation. Such fee shall be for annual periods commencing on July 1st of each year and ending on June 30th of each year and shall be due on each March 1st and shall be delinquent on and after each April 1st.

Each holder of a certificate of authority shall also be subject to the payment in advance of the following fees, as appropriate:

(1) One hundred eighteen dollars ($118) for each amended certificate of authority caused by a change of the name of the holder.

(2) Eighty-nine dollars ($89) for the services and expenses of the commissioner in connection with the filing of amended articles by a holder.

(3) Three hundred fifty-four dollars ($354) for all services and expenses of the commissioner in connection with the withdrawal of a holder of a certificate of authority under this chapter.

SEC. 22. Section 11620 of the Insurance Code is amended to read:

11620. The commissioner, after a public hearing, shall approve or issue a reasonable plan for the equitable apportionment, among insurers admitted to transact liability insurance, of those applicants for automobile bodily injury and property damage liability insurance who are in good faith entitled to but are unable to procure such insurance through ordinary methods. The commissioner shall require the payment of five hundred ninety dollars ($590), in advance, as a fee for the filing of amendments to the plan with the commissioner. The commissioner may approve or issue reasonable amendments to such plan if he or she first holds a public hearing to determine whether the amendments are in keeping with the intent and purpose of this section. All such insurers shall subscribe to the plan and its amendments and, subject to Section 11621, participate therein.

Notice of the public hearings required by this section shall be published at least 45 days prior to the hearing or close of the public comment period on the adoption, amendment, or repeal of a regulation, in two newspapers of general circulation, one published in the City and County of San Francisco, and the other published in the City of Los Angeles.

SEC. 22.5. Section 11693.5 of the Insurance Code is amended to read:

11693.5. The commissioner shall collect the sum of two hundred ninety-five dollars ($295) from any admitted workers' compensation insurer that fails to file in his office within the time prescribed by law any such workers' compensation bond, or deposit of securities in lieu thereof, required by this code. He shall also collect an additional three hundred fifty-four dollars ($354) for each and every month or fractional part of a month thereafter that such workers' compensation insurer continues to transact the business of workmen's compensation insurance until such bond or deposit of

securities in lieu thereof is filed.

SEC. 23. Section 11715 of the Insurance Code is amended to read:

11715. (a) Any worker's compensation insurer may, in lieu of and for the same purpose as the bond required by Section 11690, and upon payment of the fee prescribed in this article, deposit cash instruments, approved letters of credit, or approved interest-bearing securities or approved stocks readily convertible into cash, or investment certificates or share accounts issued by a savings and loan association doing business in this state and insured by the Federal Savings and Loan Insurance Corporation or certificates of deposit or savings deposits in a bank licensed to do business in this state. The deposit shall be made from time to time as demanded by the commissioner and may be made with the State Treasurer, or a bank or savings and loan association authorized to engage in the trust business pursuant to Chapter 1 (commencing with Section 99) of Division 1 or Chapter 3 (commencing with Section 5500) of Division 2 of the Financial Code, or trust company pursuant to the approval of the commissioner under such rules and regulations as he shall promulgate. The deposit shall be maintained at a deposit value of not less than twenty-five thousand dollars ($25,000), nor less than the reserves required of such insurer to be maintained under any of the provisions of Article 1 (commencing with Section 11550), Chapter 1, Part 3, Division 2, relating to loss reserves on worker's compensation business of the insurer in this state, nor less than the sum of the amounts specified in subdivision (a) of Section 11699.

(b) Any worker's compensation insurer electing to bring itself within the provisions of subdivision (a) by submitting securities, stock, investment certificates, or share deposits registered in a depositor's name, shall execute and deliver in duplicate to the commissioner a power of attorney in favor of the commissioner for the purposes specified in Section 11690, supported by a resolution of the depositor's board of directors. The power of attorney and directors' resolution shall be on forms approved by the commissioner, shall provide that the power of attorney cannot be revoked or withdrawn without the consent of the commissioner, and shall be acknowledged as required by law.

(c) The commissioner shall require payment of one hundred seventy-seven dollars ($177) in advance as a fee for the initial filing and the first semiannual review of each letter of credit specified in subdivision (a). In addition, each worker's compensation insurer depositing a letter of credit shall pay an annual fee of one hundred eighteen dollars ($118) in advance on account of such letter until its expiration or revocation. Such fee shall be for annual periods commencing each January 1 and shall be due and payable on the following April 1.

(d) The commissioner shall require payment of one hundred eighteen dollars ($118) in advance as a fee for the initial filing of a deposit agreement with a bank, savings and loan association, or trust company on deposits made pursuant to subdivision (a). An

additional fee of one hundred eighteen dollars ($118) shall be payable for each amendment, supplement, or other change to the deposit agreement. In addition, the commissioner shall require the payment of fifty-eight dollars ($58) in advance for receiving and processing deposit schedules pursuant to this section. An additional fee of twenty-nine dollars ($29) shall be payable for each withdrawal, substitution, or any other change in the deposit.

SEC. 24. Section 11751.55 of the Insurance Code is amended to read:

11751.55. If an insurer, the State Compensation Insurance Fund, a rating organization, or an advisory organization requests an official action by the commissioner under Chapters 2 (commencing with Section 11630), 3 (commencing with Section 11690), or 4 (commencing with Section 11770) of this part which he can lawfully consummate only after a noticed public hearing required by law, the commissioner shall require the request to be in writing and require the payment of five hundred ninety dollars ($590), in advance, as a fee for filing such request. Such fee shall be earned even if the request is denied or is granted in an altered form.

SEC. 24.5. Section 12161 of the Insurance Code is amended to read:

12161. Application for a certificate of authority shall be made on a form prescribed by the commissioner, accompanied by a filing fee of two thousand sixty-five dollars ($2,065). Such certificate shall not be granted until the applicant conforms to the requirements of this part and the laws of this state prerequisite to its issue. After such issue the holder shall continue to comply with the requirements of this part and the laws of this state.

SEC. 25. Section 12162 of the Insurance Code is amended to read:

12162. The commissioner shall not issue a certificate of authority to any motor club until:

(a) It files with him the following:

1. A formal application for the certificate in such form and detail as the commissioner requires, executed under oath by its president or other principal officer.

2. A certified copy of its charter or articles of incorporation and its bylaws, if any.

3. A copy of its latest financial statement, or report of independent audit as the commissioner may require; or, in the event neither is available, its most recent operating statement and balance sheet. Any such financial statement, audit, operating and balance sheet shall be verified by the person compiling or making the same and by an executive officer of the applicant.

4. If it is a foreign corporation, a certificate from its domiciliary state regulatory authority executed not more than 30 days before the filing of its application that it is duly authorized to do a motor club business in that state.

5. An explanation of its plan of doing business, and copies of the following: its application for membership; the proposed membership

certificate or identification card; any proposed addendum thereto; any individual insurance policy and any group master policy and individual certificates thereunder to be offered; any service contract to be issued.

6. Such other information as the commissioner may find necessary in order to determine applicant's qualifications.

(b) It first deposits security with the commissioner in one of the following forms:

1. Securities of the kinds prescribed by this code for capital fund investments by stock insurers and approved by the commissioner, in the amount of one hundred thousand dollars ($100,000) based on par value or market value, whichever is less. The making, maintenance and withdrawal of such deposits and the substitution of securities therein shall be governed by Article 11 (commencing with Section 939) of Chapter 1 of Part 2 of Division 1; or

2. A surety bond on a form prescribed by the Attorney General of this state, executed by an admitted surety insurer in the penal sum of one hundred thousand dollars ($100,000).

(c) It pays to the commissioner an annual license fee of one hundred seventy-seven dollars ($177).

(d) Its name is approved by the commissioner under the provisions of Section 881, the provisions of which section are hereby made applicable to motor clubs.

(e) It proves by affidavits of its officers, directors, managers, and individual owners of more than 10 percent on a form prescribed by the commissioner that it is not disqualified under the provisions of Section 704.5 of this code.

(f) It satisfies the commissioner it is qualified as respects each of the subjects enumerated in subdivisions (b), (c), (e), (f), (h), (i), and (j) of Section 717, when those subjects are read in the sense of protection to its members instead of policyholders.

(g) It is a separate legal entity capable of being examined by the commissioner as provided in this part.

SEC. 25.1. Section 12168 of the Insurance Code is amended to read:

12168. Annually on or before March 1st of each year, copies of any instruments making any changes in articles of incorporation, bylaws, and membership certificate or identification card or service contract required by this part to be filed with the application for admission shall be filed with the commissioner. In the case of articles of incorporation, an amendment or certificate of amendment shall be certified by the official custodian of the original as a true copy of the same on file in his office. Amended bylaws or other papers shall be certified by the corporation secretary over the corporate seal to be true copies of the same currently adopted. The commissioner shall require the payment of twenty dollars ($20) in advance for each such annual filing of amended documents or papers pursuant to this article.

SEC. 25.2. Section 12389 of the Insurance Code is amended to

read:

12389. (a) An underwritten title company as defined in Section 12340.5, which shall be a stock corporation, may engage in the business of preparing title searches, title reports, title examinations, certificates or abstracts of title, upon the basis of which a title insurer writes title policies, provided that:

(1) Only domestic corporations may be licensed under this section and no underwritten title company, as defined in Section 12340.5, shall become licensed under this section, or change the name under which it is licensed or operates, unless it has first complied with the provisions of Section 881.

(2) Depending upon the county or counties in which the company is licensed to transact business, it shall maintain required minimum net worth as follows:

Aggregate number of documents recorded and documents filed in the offices of the county recorders in the preceding calendar year in all counties where the company is licensed to transact business	Amount of required minimum net worth
Number of documents	
Less than 50,000	$ 75,000
50,000 to 100,000	120,000
100,000 to 500,000	200,000
500,000 to 1,000,000	300,000
1,000,000 or more	400,000

"Net worth" is defined as the excess of assets over all liabilities and required reserves. It may carry as an asset the actual cost of its title plant provided the value ascribed to such asset shall not exceed the aggregate value of all other assets.

Where a title plant of an underwritten title company is not being currently maintained, the asset value of such plant shall not exceed its asset value as determined in the preceding paragraph as of the date to which such plant is currently maintained, less $\frac{1}{10}$th thereof for each succeeding year or part thereof that such plant is not being currently maintained. For the purposes of this section, a title plant shall be deemed currently maintained so long as it is used in the normal conduct of the business of title insurance, and (1) the owner thereof continues regularly to obtain and index title record data to such plant or to a continuation thereof in a format other than that previously used, including, but not limited to, computerization of such data, or (2) the owner thereof is a participant, in an arrangement for joint use of a title plant system regularly maintained in any format, provided such owner is contractually entitled to receive a copy of the title record data contained in such jointly used

title plant system during the period of such owner's participation therein, either periodically or upon termination of such participation, at a cost not to exceed the actual cost of duplication of such title record data.

An underwritten title company at all times shall maintain current assets of at least ten thousand dollars ($10,000) in excess of its current liabilities, as such current assets and liabilities may be defined pursuant to regulations made by the commissioner. In making such regulations, the commissioner shall be guided by generally accepted accounting principles followed by certified public accountants in this state.

(3) Such an underwritten title company shall obtain from the commissioner a license to transact its business. Such license shall not be granted until the applicant conforms to the requirements of this section and all other provisions of this code specifically applicable to applicant. After issuance the holder shall continue to comply with the requirements as to its business set forth in this code, in the applicable rules and regulations of the commissioner and in the laws of this state.

Any underwritten title company who possesses, or is required to possess, a license pursuant to this section shall be subject as if an insurer to the provisions of Article 8 (commencing with Section 820) of Chapter 1 of Part 2 of Division 1 of this code and shall be deemed to be subject to authorization by the Insurance Commissioner within the meaning of subdivision (e) of Section 25100 of the Corporations Code.

Such license may be obtained by filing an application on a form prescribed by the commissioner accompanied by a filing fee of three hundred fifty-four dollars ($354). Such license when issued shall be for an indefinite term and shall expire with the termination of the existence of the holder, subject to the annual renewal fee imposed under Sections 12415 and 12416.

An underwritten title company seeking to extend its license to an additional county shall pay a two hundred seven dollar ($207) fee for each such additional county, and shall furnish to the commissioner evidence, at least sufficient to meet the minimum net worth requirements of paragraph (2), of its financial ability to expand its business operation to include such additional county or counties.

(4) Such an underwritten title company shall furnish an audit to the commissioner on the forms provided by the commissioner annually, either on a calendar year basis on or before March 31st or, if approved in writing by the commissioner in respect to any individual company, on a fiscal year basis on or before 90 days after the end of the fiscal year. The time for furnishing any such audit may be extended, for good cause shown, on written approval of the commissioner for a period, not to exceed 60 days. Failure to submit an audit on time, or within such extended time as the commissioner may grant, shall be grounds for an order by the commissioner to accept no new business pursuant to subdivision (d). Such audits shall

be private, except that a synopsis of the balance sheet on a form prescribed by the commissioner may be made available to the public.

The audits shall be made in accordance with generally accepted auditing standards by an independent certified public accountant or independent licensed public accountant whose certification or license is in good standing at the time of the preparation. The fee for filing the audit shall be three hundred thirteen dollars ($313).

The commissioner may refuse to accept an audit or order a new audit for any of the following reasons:

(i) Adverse result in any proceeding before the State Board of Accountancy affecting the auditor's license.

(ii) The auditor has an affiliation with the underwritten title company or any of its officers or directors which would prevent his reports on the company from being reasonably objective.

(iii) The auditor has suffered conviction of any misdemeanor or felony based on his activities as an accountant.

(iv) Judgment adverse to the auditor in any civil action finding him guilty of fraud, deceit or misrepresentation in the practice of his profession.

Any company which fails to file any audit or other report on or before the date it is due shall pay to the commissioner a penalty fee of one hundred eighteen dollars ($118) and on failure to pay such or any other fee or file the audit required by this section shall forfeit the privilege of accepting new business until the delinquency is corrected.

(b) Such an underwritten title company may engage in the escrow business and act as escrow agent provided that:

(1) It shall maintain record of all receipts and disbursements of escrow funds.

(2) It shall deposit seven thousand five hundred dollars ($7,500) for each county in which it transacts business in some form permitted by Section 12351 with the commissioner who shall forthwith make a special deposit thereof in the State Treasury and such deposit shall be subject to the provisions of Sections 12353, 12356, 12357, and 12358 and as long as there are no claims against the deposit all interest and dividends thereon shall be paid to the depositor. The deposit shall be for the security and protection of persons having lawful claims against the depositor growing out of escrow transactions with it. Such deposit shall be maintained until four years after all escrows handled by the depositor have been closed.

(A) The commissioner may release such deposits prior to the passage of such four-year period upon presentation of evidence satisfactory to the commissioner of either a statutory merger of the depositor into a licensee or certificate holder subject to the jurisdiction of the commissioner, or a valid assumption agreement under which all liability of the depositor stemming from escrow transactions handled by it is assumed by a licensee or certificate holder subject to the jurisdiction of the commissioner.

(B) With the foregoing exceptions, the deposit shall be returned

to the depositor or lawful successor in interest following the four-year period, upon presentation of evidence satisfactory to the commissioner that there are no claims against the deposit stemming from escrow transactions handled by the depositor. If the commissioner has evidence of one or more claims against the depositor, and the depositor is not in conservatorship or liquidation, the commissioner may interplead the deposit by special endorsement to a court of competent jurisdiction for distribution on the basis that claims against the depositor stemming from escrow transactions handled by it have priority in such distribution over other claims against the depositor.

(c) The commissioner shall, whenever it appears necessary, examine the business and affairs of a company licensed under this section. All such examinations shall be at the expense of the company.

(d) At any time that the commissioner determines, after notice and hearing, that a company licensed under this section has willfully failed to comply with any of the provisions of this section, the commissioner shall make his order prohibiting the company from conducting its business for a period of not more than one year.

Any company violating such an order is subject to seizure under Article 14 (commencing with Section 1010) of Chapter 1 of Part 2 of Division 1 is guilty of a misdemeanor and may have its license revoked by the commissioner. Any person aiding and abetting any company in a violation of such an order is guilty of a misdemeanor.

The purpose of this section is to maintain the solvency of the companies subject to this section and to protect the public by preventing fraud and requiring fair dealing. In order to carry out such purposes the commissioner may make reasonable rules and regulations to govern the conduct of its business of companies subject to this section.

The name under which each underwritten title company is licensed shall at all times be an approved name. The fee for filing an application for a change of name shall be one hundred eighteen dollars ($118). Each such company shall be subject to the provisions of Article 14 (commencing with Section 1010) and Article 14.5 (commencing with Section 1065.1) of Chapter 1 of Part 2 of Division 1.

Such rules and regulations shall be adopted, amended or repealed in accordance with the procedure provided in Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 26. Section 12416 of the Insurance Code is amended to read:

12416. Each certificated title insurer possessing a certificate of authority of indefinite term pursuant to Section 701 shall owe and pay an annual renewal fee of four hundred thirteen dollars ($413) in lawful money of the United States. Each underwritten title company possessing a license of indefinite term pursuant to Section 12389 shall owe and pay an annual renewal fee of two hundred thirty-six dollars

($236), except that: (a) where the aggregate number of documents recorded and documents filed in the offices of the county recorders in the preceding calendar year in all counties where the company is licensed to transact business is less than 50,000, such company shall owe and pay an annual renewal fee of one hundred eighteen dollars ($118), or (b) where the aggregate number of documents recorded and documents filed in the offices of the county recorders in the preceding calendar year in all counties where the company is licensed to transact business is more than 50,000 but less than 100,000, such company shall owe and pay an annual renewal fee of one hundred fifty dollars ($150). Such fees shall be for annual periods commencing on July 1 of each year and ending on June 30 of each year, and shall be due on March 1st preceding the annual period for which such fees are charged, and shall be delinquent on and after April 1st next following the date when due.

SEC. 26.5. Section 12640.20 of the Insurance Code is amended to read:

12640.20. The commissioner shall collect in advance a fee of four hundred seventy-two dollars ($472) from each mortgage guaranty insurer for the examination and analysis of the reinsurance contracts, final prospectus, and private placement memorandum filed with the commissioner after the issuance of a pool insurance policy.

SEC. 27. Section 12931 of the Insurance Code is amended to read:

12931. (a) Service of legal process, notices or other papers described in or referred to by Section 1452, 1605, 1610, 1612, 1659, 1660, 11104 or 11105 may be made upon the commissioner in the instances enumerated in this section and under the circumstances prescribed in this section by delivering to the commissioner or his deputy two copies thereof for each person or party defendant so served accompanied by payment of twelve dollars ($12) for each such person or party, and by complying with the other provisions of this section.

(b) The situations under which such service may be so made and the circumstances under which these provisions apply are:

(1) Where for any reason the person desiring to have service so made elects to serve the commissioner instead of the attorney in fact, as stipulated pursuant to Section 1323, of a reciprocal or interinsurance exchange, domestic, foreign, admitted or nonadmitted.

(2) Where service is to be made on an admitted foreign or alien insurer, when service cannot be made on the principal statutory agent of such insurer duly appointed pursuant to Article 3 (commencing with Section 1600) of Chapter 4 of Part 2 of Division 1 for reasons specified in Section 1604 or otherwise recognized by law.

(3) In actions against nonadmitted insurers, including nonadmitted fraternal benefit societies and reciprocals, under the circumstances described in Article 4 (commencing with Section 1610) of Chapter 4 of Part 2 of Division 1. This provision shall not

apply to actions brought under insurance policies or certificates issued by nonadmitted insurers placed by surplus line brokers or special lines surplus line brokers where such insurance contract names a resident of this state as agent for service of process.

(4) In the instances described by Section 1659 relating to nonresident California-licensed insurance agents, brokers and life agents.

(5) In actions involving admitted and formerly admitted fraternal benefit societies as described in Section 11104.

(c) Upon receipt of two copies of the process, notice or papers to be served and the fee above prescribed, the commissioner shall promptly mail one of the copies by certified mail (or by registered mail if it is addressed to an area outside of the United States where certified mail service is not available) to the defendant or person to be served at his last principal place of business known to the commissioner by his official records in the case of a licensee; otherwise, in the case of a nonadmitted insurer, to its last principal place of business known to the commissioner from national directories or reference books or other reliable information available in the commissioner's office. He shall keep a record of all services made upon him pursuant to this section. The other copy of such process, notice or papers shall be retained among his official public records for a period not to exceed two years, absent special circumstances which in his judgment compel longer retention.

(d) Such service made in the manner provided for in this section is valid and sufficient and gives jurisdiction over the person of a nonadmitted or unauthorized defendant, provided notice of such service and a copy of the process, notice or papers being served are sent within 10 days thereafter by certified mail (or by registered mail if it is addressed to an area outside of the United States where certified mail service is not available) by plaintiff or plaintiff's attorney to the defendant at its last known principal place of business, and the receipt or the receipt of defendant's agent for such copy, showing the name of the sender and the name and address of the addressee-defendant thereon, and the affidavit of plaintiff or plaintiff's attorney showing compliance with this section, are filed with the clerk of the court in which such action is pending on or before the date the defendant is required to appear, or within such further time as the court may allow.

In case of service made pursuant to this section upon a licensee of the commissioner required by law to keep his or its current business address or that of its agent for service of process on file with the commissioner, such service shall be valid if the commissioner mailed, postage prepaid, a copy of the process, notice or papers to the defendant or licensee intended to be served to his current address as shown by the commissioner's records, or in the case of an insurer, to its manager, president or secretary, and an affidavit of compliance by plaintiff or plaintiff's attorney at law is made and filed at the place and within the time mentioned in this subdivision.

(e) No plaintiff or complainant shall be entitled to a judgment by default in any such action, suit or proceeding in which service of process is effected in the manner provided in this section until the expiration of 30 days from the date on which the affidavit of compliance is filed.

(f) Nothing in this section shall limit or abridge the right to serve any process, notice, papers or demand upon any insurer in any other manner now or hereafter permitted by law.

SEC. 27.5. Section 12970 of the Insurance Code is amended to read:

12970. The commissioner shall require the payment in advance of a fee for copying microfilm records in the amount of thirty cents ($0.30) per page.

SEC. 28. Section 12973 of the Insurance Code is amended to read:

12973. The commissioner shall require in advance, in lawful money of the United States as a fee for issuing certificates when the fee is not otherwise specified, sums as follows: (a) where there is sufficient demand so that the commissioner in his discretion has prepared a form of the certificate in advance, which requires only the filling in of blanks for completion, nine dollars ($9); and (b) for issuing any other certificate, the reasonable cost of preparing and issuing such certificate, but not to exceed twenty-three dollars ($23) for the first copy of such certificate and nine dollars ($9) for each additional copy thereof.

SEC. 29. Section 12973.5 of the Insurance Code is amended to read:

12973.5. The commissioner shall charge and collect in advance the following fees:

(a) For filing any application for a license, permit, or certificate of authority when a fee for either filing the application or issuing the license, permit, or certificate is not elsewhere specified in this code, twenty dollars ($20).

(b) For filing any application to take any qualifying examination required by this code to be taken by a licensee other than an insurer, or to be taken by any applicant for a license other than a certificate of authority when a fee for filing such application or giving such examination is not elsewhere specified in this code, twenty-nine dollars ($29).

SEC. 30. Section 12975.8 of the Insurance Code is amended to read:

12975.8. (a) The Insurance Fund shall, in addition to the funds specified in Section 12975.7, consist of all of the following:

(1) All moneys appropriated to the fund in accordance with law.

(2) All moneys deposited into the State Treasury from any source whatever in payment of lawful fees or reimbursements collected by the Department of Insurance.

(3) The balance remaining in the Insurance Fund at the end of any fiscal year, whether the moneys received are from an appropriation, fees, or from reimbursements for services rendered.

(b) All moneys in the Insurance Fund shall be subject to an annual appropriation each fiscal year for the support of the Department of Insurance.

(c) Any balance remaining in the Insurance Fund at the end of any fiscal year may be carried forward to the next succeeding fiscal year.

(d) Whenever the balance in the Insurance Fund is not sufficient to cover cash flow in the payment of authorized expenditures, the department may borrow such funds as may be necessary from whatever source and under terms and conditions as may be determined by the Director of Finance. Repayment shall be made from revenues received by the department for the same fiscal year for which the loan is made.

SEC. 31. Section 12978 of the Insurance Code is amended to read:

12978. Notwithstanding any other provision of law, the commissioner may increase or decrease the fees set forth in this code as necessary to allow the department to meet the appropriation authorized by the annual Budget Act. However, any increase or decrease so made shall be made only in accordance with this section.

Any increase or decrease in the statutory fees made by the department pursuant to this section shall be by a uniform percentage for all fees, rounded to the nearest whole dollar. Any increase or decrease in fees made by the department shall be announced by bulletin not later than January 31 of any year, to be effective on July 1 of that calendar year. The bulletin shall be sent to all affected parties and to both houses of the Legislature. Any such fee increase or decrease may be rescinded by a majority vote of both houses of the Legislature not later than April 30 after the issuance of the bulletin announcing the increase or decrease.

The limit on the amount which the fees may be increased or decreased in any year shall be the greater of the amount necessary to provide sufficient moneys to meet the appropriations contained in the Governor's Budget for the next succeeding fiscal year, or the increase or decrease in the Gross National Product Implicit Price Deflator, as established by the United States Department of Commerce, Bureau of Economic Analysis, for the most recent 12-month period preceding the increase or decrease. In the event the indicator is discontinued by the federal government, the department shall request the United States Department of Commerce to supply a formula for the conversion of the Gross National Product Implicit Price Deflator to a similar indicator or index then available, and the formula shall thereafter be the basis for the computation.

SEC. 32. Section 14042 of the Insurance Code is amended to read:

14042. 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 commissioner so to do.

The commissioner 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 of the Business and Professions Code.

A licensee desiring to conduct his or her business under more than one fictitious business name shall obtain the authorization of the commissioner 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 twelve dollars ($12) for such authorization.

SEC. 33. Section 14097 of the Insurance Code is amended to read:

14097. The amount of fees prescribed by this chapter, unless otherwise fixed, is that fixed in the following schedule:

(a) The application fee for an original license is twenty-nine dollars ($29).

(b) The application fee for an original branch office certificate is eighteen dollars ($18).

(c) The fee for an original license is an amount equal to the renewal fee in effect on the last regular renewal date before the date on which the license is issued, except that, if the license will expire less than one year after its issuance, then the fee is an amount equal to 50 percent of the renewal fee in effect on the last regular renewal date before the date on which the license is issued. The commissioner 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 commissioner as follows:

(1) For a license as an insurance adjuster, not more than one hundred eighteen dollars ($118).

(2) For a branch office certificate, not more than twenty-four dollars ($24).

(e) The application and license fee for classifications prescribed by the commissioner, in addition to those provided for in this chapter, and the application and license fees for a change in the type of business organization of a licensee, shall be in the amount prescribed by rule and regulation of the commissioner.

(f) The delinquency fee shall be 50 percent of the renewal fee in effect on the date of expiration, but not more than twenty-nine dollars ($29).

(g) The fee for reexamination of an applicant or his manager is twelve dollars ($12).

SEC. 34. Section 10 of Chapter 722 of the Statutes of 1982 is

amended to read:

Sec. 10. Sections 12975.1 and 12975.7 of the Insurance Code, as amended by Sections 1 and 3 of this act, and Sections 12975.8 and 12978 of the Insurance Code, as added by Sections 5 and 6 of this act, shall remain in effect until July 1, 1989, and as of that date are repealed. Sections 12975.1 and 12975.7 of the Insurance Code, as added by Sections 2 and 4 of this act, shall become operative on July 1, 1989.

SEC. 35. Section 11 of Chapter 722 of the Statutes of 1982 is amended to read:

Sec. 11. Section 12995 of the Insurance Code, as amended by Section 7 of this act shall remain in effect until July 1, 1989, or the date on which Article 5 (commencing with Section 12990) of Chapter 2 of Division 3 of the Insurance Code is repealed, whichever date is earlier and on such date is repealed.

Section 12995 of the Insurance Code, as added by Section 8 of this act, shall become operative only if, on July 1, 1989, Article 5 (commencing with Section 12990) of Chapter 2 of Division 3 of the Insurance Code, has not been repealed, in which case it shall become operative on July 1, 1989.

SEC. 36. Sections 30, 31, 34, and 35 of this act shall become operative on July 1, 1986.

CHAPTER 771

An act to amend Sections 21145, 21375, 24274, 24504, 26078, and 26225 of, to repeal and add Section 24275 of, and to repeal Sections 21140 and 21144 of, the Water Code, relating to irrigation districts.

[Approved by Governor September 18, 1985 Filed with Secretary of State September 19, 1985]

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

SECTION 1. Section 21140 of the Water Code is repealed.

SEC. 2. Section 21144 of the Water Code is repealed.

SEC. 3. Section 21145 of the Water Code is amended to read:

21145. All bonds shall be approved by the board.

SEC. 4. Section 21375 of the Water Code is amended to read:

21375. On the first Tuesday after the original directors qualify, and on the day on which the board holds its regular monthly meeting in January of the year succeeding the year in which a general district election is held, the directors shall meet and organize as a board and may transact any other business of the district.

SEC. 5. Section 24274 of the Water Code is amended to read:

24274. The board, on or before its regular monthly meeting in the fourth month of its fiscal year, shall render a verified statement of the financial condition of the district showing particularly all of the

following:

(a) Revenues of the next preceding year and their sources: amounts received (cash basis) or amounts received and receivable which increase the equity of the governmental unit (accrual basis).

(b) Expenditures of the next preceding year and their purposes: amounts paid (cash basis) or amounts paid and payable which decrease the equity of the governmental unit (accrual basis).

(c) The accounting method used (cash or accrual basis).

(d) A statement of the accounting method used for the preceding accounting period.

SEC. 6. Section 24275 of the Water Code is repealed.

SEC. 6.5. Section 24275 is added to the Water Code, to read:

24275. Notification that the annual financial statement is available for inspection and review shall be made at least once a week for two weeks in a newspaper published in the county in which the principal office of the district is located.

SEC. 7. Section 24504 of the Water Code is amended to read:

24504. If money is not available in the fund designated for the payment of any matured bond or interest coupon, it shall draw interest at the annual adjusted rate established by the Franchise Tax Board, as provided in Section 19269 of the Revenue and Taxation Code, from the date of its presentation for payment until notice is given that funds are available for its payment.

SEC. 8. Section 26078 of the Water Code is amended to read:

26078. Upon the assessment, if not payable in installments, or the second installment of it, if payable in installments, becoming delinquent, the collector shall collect, in addition to the assessments due on the delinquent list and the penalties added, costs in the sum of five dollars ($5) on each parcel of land separately assessed, and may collect costs of publication of the list of delinquencies and notice as required by Section 26105.

SEC. 9. Section 26225 of the Water Code is amended to read:

26225. Property sold for delinquent assessments may be redeemed within five years from the date of sale, or thereafter before a collector's deed of the property has been delivered.

Where a collector's deed has been delivered to the district, the period of redemption is extended until the first bid is received for the property or until the board determines the property is not to be sold as provided in Section 26290.

Redemption before a collector's deed of the property has been delivered may be made by payment in lawful money of the United States to the collector of the amount for which the property was sold plus a penalty equal to the annual adjusted rate established by the Franchise Tax Board, as provided in Section 19269 of the Revenue and Taxation Code, divided by 12 per month from the date of sale until redemption. Redemption after a collector's deed has been delivered may only be made by payment of the total of the following amounts:

(a) The total of the amount of the sale shown on each certificate

of sale outstanding.

(b) A penalty on each certificate of sale outstanding equal to the annual adjusted rate established by the Franchise Tax Board, as provided in Section 19269 of the Revenue and Taxation Code, divided by 12 per month from the date of sale until redemption.

(c) An amount for each year of escaped assessment determined as follows: the assessor shall establish the assessment value for the land for each year of escaped assessment and the collector shall apply the rate fixed in that year to determine the amount of the escaped assessment.

CHAPTER 772

An act relating to education.

[Approved by Governor September 18, 1985. Filed with Secretary of State September 19, 1985]

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

SECTION 1. (a) The California Postsecondary Education Commission, in cooperation with the Student Aid Commission, shall conduct an assessment of eligibility criteria for institutional participation in the Cal Grant awards program described under Article 3 (commencing with Section 69530) of Chapter 2 of Part 42 of the Education Code. The assessment shall include, but need not be limited to, an identification of alternatives to the eligibility criteria set forth in Section 69536 of the Education Code that would permit participation by California postsecondary educational institutions or programs that have full institutional approval under subdivision (b) of Section 94310 of the Education Code, or that are law schools accredited by the Committee of Bar Examiners of the State Bar of California, and an analysis of the potential costs and other demands that could result to the Cal Grant awards program from the implementation of the alternative eligibility criteria. The assessment shall recognize the intent of the Legislature that students not rely exclusively upon Cal Grant awards for financial assistance for educational purposes, and shall be submitted by the California Postsecondary Education Commission to the Legislature no later than July 1, 1986.

(b) It is the intent of the Legislature that the Committee of Bar Examiners of the State Bar of California seek approval by the federal Secretary of Education as a nationally recognized accrediting agency or association. On or before June 1, 1986, the Committee of Bar Examiners shall report to the Legislature concerning its progress in this respect.

CHAPTER 773

An act to amend Section 20361 of, and to add Sections 20362, 20363, 20364, 20365, 20366, 20367, 20368, and 20369 to, the Public Contract Code, and to add Section 130220.5 to the Public Utilities Code, relating to transportation.

[Approved by Governor September 18, 1985. Filed with Secretary of State September 19, 1985]

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

SECTION 1. Section 20361 of the Public Contract Code is amended to read:

20361. (a) If the Los Angeles County Transportation Commission is authorized to impose a transactions and use tax within the County of Los Angeles, the commission shall have the authority and power vested in the Southern California Rapid Transit District to plan, design, and construct an exclusive public mass transit guideway system in the county.

(b) In that case, the commission shall conform to this article in letting contracts for the construction of that system.

SEC. 2. Section 20362 is added to the Public Contract Code, to read:

20362. (a) The purchase of all supplies, equipment, and materials, and the construction of all facilities and works, when the expenditure required exceeds twenty-five thousand dollars ($25,000), shall be by contract let to the lowest responsible bidder. Notice requesting bids shall be published at least once in a newspaper of general circulation. The publication shall be made at least 10 days before the date for the receipt of the bids. The commission, at its discretion, may reject any and all bids and readvertise.

(b) Whenever the expected expenditure required exceeds one thousand dollars ($1,000), but not twenty-five thousand dollars ($25,000), the commission 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 executive director may act for the commission.

SEC. 3. Section 20363 is added to the Public Contract Code, to read:

20363. If, after rejecting bids received under Section 20362, the commission determines and declares, by a two-thirds vote of all of its members, that the supplies, equipment, or materials may be purchased at a lower price in the open market, the commission may proceed to purchase those supplies, equipment, or materials in the open market without further observance of the provisions in this

article regarding contracts, bids, advertisement, or notice.

SEC. 4. Section 20364 is added to the Public Contract Code, to read:

20364. In case of any great public calamity, such as an extraordinary fire, flood, storm, epidemic, or other disaster, or interruption of contracts essential to the provision of daily transit service or catastrophic failure of revenue-producing equipment or facilities, the commission may, by resolution passed by a two-thirds vote of all its members, declare and determine that public interest and necessity demand the immediate expenditure of public money to safeguard life, health, or property, and thereupon proceed to expend or enter into a contract involving the expenditure of any sum needed in the emergency without observance of the provisions in this article regarding contracts, bids, advertisement, or notice.

SEC. 5. Section 20365 is added to the Public Contract Code, to read:

20365. (a) Upon determining that immediate remedial measures to avert or alleviate damage to property, or to replace, repair, or restore damaged or destroyed property, of the commission are necessary in order to ensure that the facilities of the commission are available to serve the transportation needs of the general public, and upon determining that available remedial measures, including procurement or construction in compliance with Sections 20362, 20363, and 20364, are inadequate, the executive director may authorize the expenditure of money previously appropriated specifically by the commission for the direct purchases of goods and services, without following those sections.

(b) The executive director shall, after any such expenditure, submit to the commission a full report explaining the necessity for the action.

SEC. 6. Section 20366 is added to the Public Contract Code, to read:

20366. Notwithstanding Section 20362, and upon a finding by two-thirds vote of all members of the commission that the proposed purchase in compliance with Sections 20362 and 20363 does not constitute a method of procurement adequate for the operation of commission facilities or equipment, the commission 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 in this article regarding contracts, bids, advertisements, or notice.

SEC. 7. Section 20367 is added to the Public Contract Code, to read:

20367. Notwithstanding Section 20362, the commission may direct the purchase of any supply, equipment, or material without observance of any provision in this article regarding contracts, bids, advertisement, or notice upon a finding by two-thirds of all members of the commission 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 already in use.

SEC. 8. Section 20368 is added to the Public Contract Code, to read:

20368. (a) The Legislature finds and declares that (1) because of the highly specialized and unique nature of rail transit equipment, (2) because of products and materials which are undergoing rapid technological changes, and (3) for the introduction of new technological changes into the operations of the commission, it may be in the public interest to consider, in addition to price, factors such as vendor financing, performance reliability, standardization, life-cycle costs, delivery timetables, and support logistics in the award of contracts for these vehicles and equipment.

(b) This section applies only to the purchase by the commission of (1) specialized rail transit equipment and (2) computers, telecommunications equipment, fare collections equipment, microwave equipment, and other related electronic equipment and apparatus. This section does not apply to the purchase of rail transit vehicles.

(c) The commission may, after finding by a two-thirds vote of all of its members that a particular procurement qualifies under subdivision (b), direct that the procurement be conducted through competitive negotiation under this section. For purposes of this section, competitive negotiation includes, but is not limited to, all of the following requirements:

(1) The request for proposals shall be prepared and submitted to an adequate number of qualified sources, as determined by the commission, to permit reasonable competition consistent with the nature and requirement of the procurement.

(2) Notice of the request for proposals shall be published at least twice in a newspaper of general circulation, at least 10 days before the date for receipt of the proposals.

(3) The request for proposals shall identify all significant evaluation factors, including price, and their relative importance.

(4) The commission shall provide reasonable procedures for technical evaluation of the proposals received, identification of qualified sources, and selection for contract award.

(5) Award shall be made to the qualified proposer whose proposal will be most advantageous to the commission with price and all other factors considered.

(d) The commission, at its discretion, may reject any and all proposals and request new proposals.

(e) Any proposer may protest any acquisition conducted in accordance with this section by filing with the commission, within 10 days after receiving notice of the recommended award, exclusive of Saturdays and Sundays, a full and complete written statement specifying in detail the grounds of the protest and the facts supporting the protest. The protesting proposer shall be granted an opportunity to appear and be heard before the commission prior to the final award. The decision of the commission on the protest is

final.

SEC. 9. Section 20369 is added to the Public Contract Code, to read:

20369. In order to facilitate the participation of minority-owned and women-owned businesses and disadvantaged individuals in activities and contracts of the commission, to the extent that the provisions of Executive Order 11246 of September 24, 1965, as amended, and Chapter 60 (commencing with Section 60.1) of Title 41 and Part 23 (commencing with Section 23.1) of Title 49 of the Code of Federal Regulations are not applicable, the commission has the authority to develop a program to implement similar provisions applicable to its activities and contracts.

SEC. 10. Section 130220.5 is added to the Public Utilities Code, to read:

130220.5. (a) The Los Angeles County Transportation Commission has the power of eminent domain to take any property necessary, incidental, or convenient to the exercise of its powers pursuant to this division.

(b) No action to acquire property by eminent domain within any incorporated city or within the unincorporated area of any county shall be commenced unless written notice is given to the legislative body of the affected city or county, as the case may be, in accordance with Section 1245.235 of the Code of Civil Procedure, and the affected city or county, as the case may be, shall have the same rights to a hearing before the commission as a person to whom notice is otherwise required to be given under that section.

SEC. 11. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act.

CHAPTER 774

An act to amend Section 149.1 of Chapter 323 of the Statutes of 1983, relating to Medi-Cal, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 18, 1985. Filed with Secretary of State September 19, 1985.]

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

SECTION 1. Section 149.1 of Chapter 323 of the Statutes of 1983 is amended to read:

Sec. 149.1. Notwithstanding any other provision of law, prior to July 1, 1987, utilization controls adopted by the State Department of Health Services shall not include prior authorization for portable

X-ray services provided in skilled nursing or intermediate care facilities, as defined in Section 1250 of the Health and Safety Code.

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

In order to provide for the continuation of the prohibition against requiring prior authorization from the State Department of Health Services for the provision of portable X-ray services provided in skilled nursing or intermediate care facilities under the Medi-Cal program, it is necessary that this act go into immediate effect.

CHAPTER 775

An act to amend Sections 81004, 82011, 83115, and 87401 of, to add Section 82025.5 to, and to repeal Section 81011 of, the Government Code, relating to the Political Reform Act of 1974.

[Approved by Governor September 18, 1985 Filed with Secretary of State September 19, 1985.]

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

SECTION 1. Section 81004 of the Government Code is amended to read:

81004. (a) All reports and statements filed under this title shall be signed under penalty of perjury and verified by the filer. The verification shall state that the filer has used all reasonable diligence in its preparation, and that to the best of his knowledge it is true and complete.

(b) A report or statement filed by a committee which qualifies under subdivision (a) of Section 82013 shall be signed and verified by the treasurer, and a report or statement filed by any other person shall be signed and verified by the filer. If the filer is an entity other than an individual, the report or statement shall be signed and verified by a responsible officer of the entity or by an attorney or a certified public accountant acting as agent for the entity. Every person who signs and verifies any report or statement required to be filed under this title which contains material matter which he knows to be false is guilty of perjury.

SEC. 2. Section 81011 of the Government Code is repealed.

SEC. 2.5. Section 82011 of the Government Code is amended to read:

82011. "Code reviewing body" means all of the following:

(a) The commission, with respect to the conflict of interest code of a state agency other than an agency in the judicial branch of government, or any local government agency with jurisdiction in more than one county.

(b) The board of supervisors, with respect to the conflict of interest code of any county agency other than the board of supervisors, or any agency of the judicial branch of government, and of any local government agency, other than a city agency, with jurisdiction wholly within the county.

(c) The city council, with respect to the conflict of interest code of any city agency other than the city council.

(d) The Attorney General, with respect to the conflict of interest code of the commission.

(e) The Supreme Court or its designee, with respect to the conflict of interest code of the members of the Judicial Council, Commission on Judicial Performance, and Board of Governors of the State Bar of California.

(f) The Board of Governors of the State Bar of California with respect to the conflict of interest code of the State Bar of California.

(g) The Supreme Court, the court of appeal, the superior court, the municipal court, or the justice court, with respect to the conflict of interest code of any agency of the judicial branch of government subject to the immediate administrative supervision of that court.

(h) The Judicial Council of California, with respect to the conflict of interest code of any state agency within the judicial branch of government not included under subdivisions (e), (f), and (g).

SEC. 3. Section 82025.5 is added to the Government Code, to read:

82025.5. "Fair market value" means the estimated fair market value of goods, services, facilities or anything of value other than money. Whenever the amount of goods, services, facilities, or anything of value other than money is required to be reported under this title, the amount reported shall be the fair market value, and a description of the goods, services, facilities, or other thing of value shall be appended to the report or statement. "Full and adequate consideration" as used in this title means fair market value.

SEC. 4. Section 83115 of the Government Code is amended to read:

83115. Upon the sworn complaint of any person or on its own initiative, the commission shall investigate possible violations of this title relating to any agency, official, election, lobbyist or legislative or administrative action. Within 14 days after receipt of a complaint under this section, the commission shall notify in writing the person who made the complaint of the action, if any, the commission has taken or plans to take on the complaint, together with the reasons for such action or nonaction. If no decision has been made within 14 days, the person who made the complaint shall be notified of the reasons for the delay and shall subsequently receive notification as provided above.

SEC. 5. Section 87401 of the Government Code is amended to read:

87401. No former state administrative official, after the termination of his or her employment or term of office, shall for

compensation act as agent or attorney for, or otherwise represent, any other person (other than the State of California) before any court or state administrative agency or any officer or employee thereof by making any formal or informal appearance, or by making any oral or written communication with the intent to influence, in connection with any judicial, quasi-judicial or other proceeding if both of the following apply:

(a) The State of California is a party or has a direct and substantial interest.

(b) The proceeding is one in which the former state administrative official participated.

SEC. 6. No reimbursement shall be made from the State Mandates Claims Fund pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code for costs mandated by the state pursuant to this act. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Part 7 (commencing with Section 17500) and any other provisions of law.

SEC. 7. The Legislature finds and declares that the provisions of this act further the purposes of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code.

CHAPTER 776

An act to amend Sections 14019.3, 14019.4, 14024, and 14124.74 of, and to add Section 14124.791 to, the Welfare and Institutions Code, relating to medical assistance.

[Approved by Governor September 18, 1985. Filed with Secretary of State September 19, 1985.]

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

SECTION 1. Section 14019.3 of the Welfare and Institutions Code is amended to read:

14019.3. A beneficiary or any person on behalf of the beneficiary who has paid for health care services otherwise covered by the Medi-Cal program received by the beneficiary shall be entitled to a return from the provider of any part of the payment which meets all of the following:

(a) Was rendered during any period prior to the receipt of his or her Medi-Cal card, for which the card authorizes payment under Section 14018 or 14019.

(b) Was reimbursed to the provider by the Medi-Cal program, following all audits and appeals to which the provider is entitled.

(c) Is not payable by a third party under contractual or other legal entitlement.

(d) Was not used to satisfy his or her paid or obligated liability for health care services or to establish eligibility.

To the extent permitted by federal law, whether or not a facility actually evicts a beneficiary, a beneficiary who may validly be evicted pursuant to Section 1439.7 of the Health and Safety Code, and who has received and paid for health care services otherwise covered by the Medi-Cal program shall not be entitled to the return from the provider of any part of the payment for which service was rendered during any period prior to the date upon which knowledge is acquired by the licensee of the application of the beneficiary for Medi-Cal or the date of application for Medi-Cal, whichever is later.

Upon presentation of the Medi-Cal card or other proof of eligibility, the provider shall submit a Medi-Cal claim for reimbursement, subject to the rules and regulations of the Medi-Cal program. Payment received from the state in accordance with Medi-Cal fee structures shall constitute payment in full, except that a provider may recover remaining unpaid charges to the extent that any other state or federal medical care programs permit the recovery or to the extent that any other contractual entitlement, including, but not limited to, a private group or indemnification insurance program, is obligated to pay the charges for the care provided the beneficiary. The provider shall return any and all payments made by the beneficiary, or any person on behalf of the beneficiary, other than a third party obligated to pay charges by reason of the beneficiary's other contractual or legal entitlement for Medi-Cal program covered services upon receipt of Medi-Cal payment.

SEC. 2. Section 14019.4 of the Welfare and Institutions Code is amended to read:

14019.4. (a) Any provider of health care services who obtains a label or copy from the Medi-Cal card or other proof of eligibility pursuant to this chapter shall not seek reimbursement nor attempt to obtain payment for the cost of such covered health care services from the eligible applicant or recipient, or any person other than the department, a third party payer who provides a contractual or legal entitlement to health care services.

(b) Whenever a service or set of services rendered to a Medi-Cal beneficiary results in the submission of a claim in excess of five hundred dollars ($500), and the beneficiary has given the provider proof of eligibility to receive such service or services, the provider shall issue the beneficiary a receipt to document that appropriate proof of eligibility has been provided. The form and content of such receipts shall be determined by the provider but shall be sufficient to comply with the intent of this subdivision. Skilled nursing facilities and intermediate care facilities are exempt from the requirements of this subdivision.

SEC. 3. Section 14024 of the Welfare and Institutions Code is amended to read:

14024. When health care services are provided to a person under

this chapter who at the time the service is provided has any other contractual or legal entitlement to such services, the director shall have the right to recover from the person, corporation, or partnership who owes such entitlement, the amount which would have been paid to the person entitled thereto, or to a third party in his behalf, or the value of the service actually provided, if the person entitled thereto was entitled to services. The Attorney General may, to recover under this section, institute and prosecute legal proceedings against the person, corporation, or partnership owing such entitlement in the appropriate court in the name of the director.

To the extent permitted by federal law and subject to the director's prior right to recover upon any contractual or legal entitlement or other third-party liability for the cost incurred in rendering care, the provider of services shall remain entitled to recover remaining unpaid charges to the extent that any third party is obligated to pay the charges by reason of the beneficiary's other contractual entitlement. Any claim shall not be permitted to the extent that the claim would reduce the director's right to recover pursuant to Section 14124.78.

The provider of services shall be required to notify the department of any potential contractual or legal entitlement or other third-party liability within 60 days of discovery. A provider who has obtained proof of Medi-Cal eligibility and who makes a claim for payment by any third party shall disclose in the claim that the patient is a Medi-Cal beneficiary.

SEC. 4. Section 14124.74 of the Welfare and Institutions Code is amended to read:

14124.74. In the event of judgment or award in a suit or claim against a third party or carrier:

(a) If the action or claim is prosecuted by the beneficiary alone, the court or agency shall first order paid from any judgment or award the reasonable litigation expenses incurred in preparation and prosecution of such action or claim, together with reasonable attorney's fees, when an attorney has been retained. After payment of such expenses and attorney's fees the court or agency shall, on the application of the director, allow as a first lien against the amount of such judgment or award, the amount of the director's expenditures for the benefit of the beneficiary under the Medi-Cal program, as provided in subdivision (d) of Section 14124.72, and as a second lien, the amount of any unpaid charges, pursuant to Section 14019.3, owed to a provider, as provided in Section 14124.791.

(b) If the action or claim is prosecuted both by the beneficiary and the director, the court or agency shall first order paid from any judgment or award, the reasonable litigation expenses incurred in preparation and prosecution of such action or claim, together with reasonable attorney's fees based solely on the services rendered for the benefit of the beneficiary. After payment of such expenses and attorney's fees, the court or agency shall first apply out of the balance

of such judgment or award an amount sufficient to reimburse the director the full amount of benefits paid on behalf of the beneficiary under the Medi-Cal program, and then an amount sufficient to reimburse a provider who has filed a lien for any unpaid charges for services rendered to the beneficiary, as provided under Section 14124.791.

SEC. 5. Section 14124.791 is added to the Welfare and Institutions Code, to read:

14124.791. (a) Subject to the director's prior right of recovery, a provider who has rendered services to a beneficiary because of an injury for which a third party is liable and who has received payment under the Medi-Cal program, which payment did not cover the full amount of the provider's charges for the services, shall be entitled to file a lien for the amount of unpaid charges against any judgment, award, or settlement obtained by the beneficiary or the director against that third party.

(b) If either the beneficiary or the director brings an action or claim against the third party, the party bringing the action shall, within 30 days of bringing the action, give written notice to any provider who is eligible to file a lien under subdivision (a) of the action and of the name of the court or state or local agency in which the action or claim is brought. Notice shall be given by personal service or registered mail, and proof of service shall be filed in the action or claim.

(c) The provider's claim for reimbursement for unpaid charges for services rendered to the beneficiary shall be limited to the amount of unpaid charges less 25 percent, which represents the provider's reasonable share of attorneys' fees for prosecution of the action and that portion of the cost of litigation expenses determined by multiplying the expenses by the ratio of the full amount of the unpaid charges to the full amount of the judgment, award, or settlement.

(d) No claim authorized by this section shall be permitted to the extent that the claim would reduce the director's right to recover pursuant to Section 14124.78.

SEC. 6. The State Department of Health Services shall seek any federal waivers necessary to implement the provisions of this act. The provisions for which appropriate federal waivers cannot be obtained shall not be implemented. Provisions for which waivers are obtained or for which waivers are not required shall be implemented notwithstanding any inability to obtain federal waivers for the other provisions. No provision of this act shall be implemented unless matching funds from Title XIX of the federal Social Security Act are available.

CHAPTER 777

An act relating to postsecondary education, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 18, 1985. Filed with Secretary of State September 19, 1985]

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

SECTION 1. The Legislature hereby finds and declares that there presently is, and will continue to be, a serious shortage of high-quality classroom teachers willing to teach in the public schools, particularly in the subject areas of elementary education, mathematics, science, and computer science. The Legislature also finds and declares that improved research into elementary and secondary education is a high priority for the state.

The Legislature recognizes that, because of the increasing difficulty of recruiting qualified students into educational instruction and research and because of the anticipated high turnover rate among research faculty over the next decade, there is a need to develop a systematic plan to upgrade and maintain the state's investment in teacher education and educational research.

SEC. 2. (a) The Regents of the University of California are hereby requested, and the Trustees of the California State University are hereby required, to develop an academic and budgetary plan for each campus operating programs in teacher education, continuing education, graduate professional and academic education, and educational research through the year 2000. These plans shall be compiled into a systemwide plan, and shall, at a minimum, include campus-level plans regarding all of the following:

(1) Projections of student demand into each of these programs, based upon clearly defined assumptions about admissions standards, credential requirements, and other factors affecting student demands.

(2) Projections of anticipated turnover and plans for rehiring for all regular and irregular ranks of faculty by area of specialization, based upon the assumptions described in paragraph (1).

(3) Plans for recruiting faculty and students for areas where there is current or projected need.

(4) Plans for increasing the representation of underrepresented groups among students and faculty.

(5) Plans for improving the integration of research into all aspects of teacher education.

(6) Plans for developing research in areas of statewide need.

(b) The Regents of the University of California and the Trustees of the California State University are requested to convene a group to oversee the development of the plans prescribed in subdivision (a). The group shall be responsible for developing recommendations

about the relative roles and responsibilities of the two systems in teacher and administrator education and educational research in the state, and for defining common data elements and planning assumptions so that the information presented by the two systems is reasonably compatible.

(c) The reports required by subdivision (a) shall be submitted to the Legislature and the Governor by September 30, 1986. Prior to submission to the Legislature and the Governor, the reports shall be submitted to the Department of Finance, the Joint Legislative Budget Committee, the California Postsecondary Education Commission, and the Commission on Teacher Credentialing for their review and comment.

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 request the Regents or the University of California, and to require the Trustees of the California State University to undertake the development of the academic and budgetary plan for teacher training described in Section 2 of this act at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 778

An act to amend Sections 948, 965, 965.2, 965.6, and 965.8 of the Government Code, relating to public liability.

[Approved by Governor September 18, 1985. Filed with Secretary of State September 19, 1985.]

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

SECTION 1. Section 948 of the Government Code is amended to read:

948. (a) The head of the state agency concerned, upon recommendation of the Attorney General or other attorney authorized to represent the state, may settle, adjust, or compromise any pending action where the Director of Finance certifies that a sufficient appropriation for the payment of claims exists. Claims arising out of the activities of the State Department of Transportation may be paid if either the Director of Transportation or the Director of Finance certifies that a sufficient appropriation for the payment of the claim exists.

(b) Where no funds or insufficient funds for such payment exist, the head of the state agency concerned, upon recommendation of the Attorney General or other attorney authorized to represent the state, may settle, adjust or compromise any pending action with the approval of the Department of Finance.

(c) As used in this section, "state agency" means any office, officer, department, division, bureau, board, commission or agency of the state claims against which are paid by warrants drawn by the Controller.

SEC. 2. Section 965 of the Government Code is amended to read:

965. Upon the allowance by the State Board of Control of all or part of a claim for which the Director of Finance certifies that a sufficient appropriation for the payment of the claim exists, and the execution and presentation of such documents as the board may require which discharge the state of all liability under the claim, the board shall designate the fund from which the claim is to be paid and the state agency concerned shall pay the claim from such fund. Where no sufficient appropriation for such payment is available, the board shall report to the Legislature in accordance with Section 912.8. Claims arising out of the activities of the State Department of Transportation may be paid if either the Director of Transportation or the Director of Finance certifies that a sufficient appropriation for the payment of the claim exists.

SEC. 3. Section 965.2 of the Government Code is amended to read:

965.2. The Controller shall draw a warrant for the payment of any final judgment or settlement against the state whenever the Director of Finance certifies that a sufficient appropriation for the payment of such judgment or settlement exists. Claims upon such judgments and settlements are exempt from Section 925.6. Claims arising out of the activities of the State Department of Transportation may be paid if either the Director of Transportation or the Director of Finance certifies that a sufficient appropriation for the payment of the claim exists.

SEC. 4. Section 965.6 of the Government Code is amended to read:

965.6. Notwithstanding any other provision of law, neither the state, nor any of its officers or employees, can be required by any court in any proceeding to pay or offset a tort liability claim, settlement, or judgment for which the state is liable unless one of the following conditions exists:

(a) The Legislature has authorized the payment or offset of the specific tort liability claim, settlement, or judgment.

(b) The Director of Finance, or the Director of Transportation for claims arising out of the activities of the Department of Transportation, has certified that a sufficient appropriation for the payment of the claim, settlement, or judgment or to provide for such offset exists.

SEC. 5. Section 965.8 of the Government Code is amended to read:

965.8. Where any provision of this division requires a certificate of the Director of Finance or the Director of Transportation that a sufficient appropriation exists for the payment of a claim, settlement, compromise, or judgment or requires a certificate of the Director of

Finance or the Director of Transportation that a sufficient appropriation exists to provide for an offset, a writ of mandate is an appropriate remedy to compel the Director of Finance or the Director of Transportation to so certify if a sufficient appropriation in fact exists for that purpose.

CHAPTER 779

An act to add Section 7184 to the Health and Safety Code, relating to anatomical donors.

[Approved by Governor September 19, 1985 Filed with Secretary of State September 19, 1985]

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

SECTION 1. Section 7184 is added to the Health and Safety Code, to read:

7184. Each general acute care hospital shall develop a protocol for identifying potential organ and tissue donors. The protocol shall require that any deceased individual's next of kin or other individual, as set forth in Section 7151.5, at or near the time of notification of death be asked whether the deceased was an organ donor or if the family is a donor family. If not, the family shall be informed of the option to donate organs and tissues pursuant to Chapter 3.5 (commencing with Section 7150) of Part 1 of Division 7. With the approval of the designated next of kin or other individual, as set forth in Section 7151.5, the hospital shall then notify an organ and tissue procurement organization and cooperate in the procurement of the anatomical gift or gifts. The protocol shall encourage reasonable discretion and sensitivity to the family circumstances in all discussions regarding donations of tissue or organs. The protocol may take into account the deceased individual's religious beliefs or obvious nonsuitability for organ and tissue donation. In the event an organ and tissue procurement organization does not exist in a region, the hospital shall contact an organ or a tissue procurement organization, as appropriate. Laws pertaining to notification of the coroner shall be complied with in all cases of reportable deaths.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the local agency or school district has the authority to levy service charges, fees, or assessments, pursuant to Sections 1177 and 1473 of the Health and Safety Code, sufficient to pay for the program or level of service mandated by this act.

CHAPTER 780

An act to amend Section 1320.5 of the Penal Code, relating to bail.

[Approved by Governor September 19, 1985. Filed with Secretary of State September 19, 1985.]

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

SECTION 1. Section 1320.5 of the Penal Code is amended to read:

1320.5. Every person who is charged with the commission of a felony, who is released from custody on bail, and who in order to evade the process of the court willfully fails to appear as required, is guilty of a felony. Upon a conviction under this section, the person 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 the fine and imprisonment. Willful failure to appear within 14 days of the date assigned for appearance may be found to have been for the purpose of evading the process of the court.

SEC. 2. No reimbursement is required by this act pursuant to 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 incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 781

An act to amend Section 594 of the Penal Code, relating to vandalism.

[Approved by Governor September 19, 1985 Filed with Secretary of State September 19, 1985]

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

SECTION 1. Section 594 of the Penal Code is amended to read:

594. (a) Every person who maliciously (1) defaces with paint or any other liquid, (2) damages or (3) destroys any real or personal property not his own, in cases otherwise than those specified by state law, is guilty of vandalism.

(b) (1) If the amount of defacement, damage or destruction is five thousand dollars ($5,000) or more, vandalism is punishable by imprisonment in the state prison, or in a county jail not exceeding one year, or by a fine of not more than ten thousand dollars ($10,000), or by both that fine and imprisonment.

(2) If the amount of defacement, damage or destruction is one thousand dollars ($1,000) or more but less than five thousand dollars ($5,000), vandalism is punishable by imprisonment in the county jail not exceeding one year, or by a fine of five thousand dollars ($5,000), or by both that fine and imprisonment.

(3) If the amount of defacement, damage or destruction is less than one thousand dollars ($1,000), vandalism is punishable by imprisonment in the county jail for not more than six months, or by a fine of not more than one thousand dollars ($1,000), or by both that fine and imprisonment.

SEC. 2. No reimbursement is required by this act pursuant to 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 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 782

An act to amend Section 243.4 of the Penal Code, relating to crimes.

[Approved by Governor September 19, 1985 Filed with Secretary of State September 19, 1985]

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

SECTION 1. Section 243.4 of the Penal Code is amended to read:

243.4. (a) Any person who touches an intimate part of another person while that person is unlawfully restrained by the accused or an accomplice, and if the touching is against the will of the person touched and is for the purpose of sexual arousal, gratification, or abuse, is guilty of sexual battery. Such an act is punishable by either imprisonment in the county jail for not more than one year or in the state prison for two, three, or four years.

(b) Any person who touches an intimate part of another person who is institutionalized for medical treatment and who is seriously disabled or medically incapacitated, if the touching is against the will of the person touched, and if the touching is for the purpose of sexual arousal, gratification, or abuse, is guilty of sexual battery. Such an act is punishable by either imprisonment in the county jail for not more than one year or in the state prison for two, three, or four years.

(c) Any person who, for the purpose of sexual arousal, gratification, or abuse, causes another, against that person's will while that person is either unlawfully restrained by the accused or an accomplice, or is institutionalized for medical treatment and is seriously disabled or medically incapacitated, to masturbate or touch an intimate part of either of those persons or a third person, is guilty

of sexual battery. Such an act is punishable by imprisonment in the county jail for not more than one year or in the state prison for two, three, or four years.

(d) As used in this section, "intimate part" means the sexual organ, anus, groin, or buttocks of any person, and the breast of a female. Sexual battery does not include the crime of rape as defined in Sections 261 and 289. As used in this section, "touches" means physical contact with the skin of another person.

As used in this section, "seriously disabled" means a person with severe physical or sensory disabilities.

As used in this section, "medically incapacitated" means a person who is incapacitated as a result of prescribed sedatives, anesthesia or other medication.

As used in this section, "institutionalized" means a person who is located voluntarily or involuntarily in a hospital, medical treatment facility, nursing home, acute care facility, or mental hospital.

(e) This section shall not be construed to limit or prevent prosecution under any other law which also proscribes a course of conduct that also is proscribed by this section.

SEC. 2. Section 243.4 of the Penal Code is amended to read:

243.4. (a) Any person who touches an intimate part of another person while that person is unlawfully restrained by the accused or an accomplice, and if the touching is against the will of the person touched and is for the purpose of sexual arousal, gratification, or abuse, is guilty of sexual battery. Such an act is punishable by either imprisonment in the county jail for not more than one year or in the state prison for two, three, or four years.

(b) Any person who touches an intimate part of another person who is institutionalized for medical treatment and who is seriously disabled or medically incapacitated, if the touching is against the will of the person touched, and if the touching is for the purpose of sexual arousal, gratification, or abuse, is guilty of sexual battery. Such an act is punishable by either imprisonment in the county jail for not more than one year or in the state prison for two, three, or four years.

(c) Any person who, for the purpose of sexual arousal, gratification, or abuse, causes another, against that person's will while that person is either unlawfully restrained by the accused or an accomplice, or is institutionalized for medical treatment and is seriously disabled or medically incapacitated, to masturbate or touch an intimate part of either of those persons or a third person, is guilty of sexual battery. Such an act is punishable by imprisonment in the county jail for not more than one year or in the state prison for two, three, or four years.

(d) As used in this section, "intimate part" means the sexual organ, anus, groin, or buttocks of any person, and the breast of a female. Sexual battery does not include the crime of rape as defined in Sections 261 and 289. As used in this section, "touches" means physical contact with the skin of another person whether accomplished directly or through the clothing of the person

committing the offense.

As used in this section, "seriously disabled" means a person with severe physical or sensory disabilities.

As used in this section, "medically incapacitated" means a person who is incapacitated as a result of prescribed sedatives, anesthesia, or other medication.

As used in this section, "institutionalized" means a person who is located voluntarily or involuntarily in a hospital, medical treatment facility, nursing home, acute care facility, or mental hospital.

(e) This section shall not be construed to limit or prevent prosecution under any other law which also proscribes a course of conduct that also is proscribed by this section.

SEC. 3. No reimbursement is required by this act pursuant to 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 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. Section 2 of this bill incorporates amendments to Section 243.4 of the Penal Code proposed by both this bill and AB 344. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1986, (2) each bill amends Section 243.4 of the Penal Code, and (3) this bill is enacted after AB 344, in which case Section 1 of this bill shall not become operative.

CHAPTER 783

An act to add Article 15 (commencing with Section 1350) to Chapter 2 of Division 10 of the Evidence Code, and to amend Sections 1335, 1336, 1337, and 1341 of the Penal Code, relating to evidence.

[Approved by Governor September 19, 1985 Filed with Secretary of State September 19, 1985]

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

SECTION 1. Article 15 (commencing with Section 1350) is added to Chapter 2 of Division 10 of the Evidence Code, to read:

Article 15. Declarant Unavailable as Witness

1350. (a) In a criminal proceeding charging a serious felony, evidence of a statement made by a declarant is not made inadmissible by the hearsay rule if the declarant is unavailable as a witness, and all of the following are true:

(1) There is clear and convincing evidence that the declarant's unavailability was knowingly caused by, aided by, or solicited by the

party against whom the statement is offered for the purpose of preventing the arrest or prosecution of the party and is the result of the death by homicide or the kidnapping of the declarant.

(2) There is no evidence that the unavailability of the declarant was caused by, aided by, solicited by, or procured on behalf of, the party who is offering the statement.

(3) The statement has been memorialized in a tape recording made by a law enforcement official, or in a written statement prepared by a law enforcement official and signed by the declarant and notorized in the presence of the law enforcement official, prior to the death or kidnapping of the declarant.

(4) The statement was made under circumstances which indicate its trustworthiness and was not the result of promise, inducement, threat, or coercion.

(5) The statement is relevant to the issues to be tried.

(6) The statement is corroborated by other evidence which tends to connect the party against whom the statement is offered with the commission of the serious felony with which the party is charged. The corroboration is not sufficient if it merely shows the commission of the offense or the circumstances thereof.

(b) If the prosecution intends to offer a statement pursuant to this section, the prosecution shall serve a written notice upon the defendant at least 10 days prior to the hearing or trial at which the prosecution intends to offer the statement, unless the prosecution shows good cause for the failure to provide that notice. In the event that good cause is shown, the defendant shall be entitled to a reasonable continuance of the hearing or trial.

(c) If the statement is offered during trial, the court's determination shall be made out of the presence of the jury. If the defendant elects to testify at the hearing on a motion brought pursuant to this section, the court shall exclude from the examination every person except the clerk, the court reporter, the bailiff, the prosecutor, the investigating officer, the defendant and his or her counsel, an investigator for the defendant, and the officer having custody of the defendant. Notwithstanding any other provision of law, the defendant's testimony at the hearing shall not be admissible in any other proceeding except the hearing brought on the motion pursuant to this section. If a transcript is made of the defendant's testimony, it shall be sealed and transmitted to the clerk of the court in which the action is pending.

(d) As used in this section, "serious felony" means any of the felonies listed in subdivision (c) of Section 1192.7 of the Penal Code or any violation of Section 11351, 11352, 11378, or 11379 of the Health and Safety Code.

(e) If a statement to be admitted pursuant to this section includes hearsay statements made by anyone other than the declarant who is unavailable pursuant to subdivision (a), those hearsay statements are inadmissible unless they meet the requirements of an exception to the hearsay rule.

SEC. 2. Section 1335 of the Penal Code is amended to read:

1335. (a) When a defendant has been charged with a public offense triable in any court, he or she in all cases, and the people in cases other than those for which the punishment may be death, may, if the defendant has been fully informed of his or her right to counsel as provided by law, have witnesses examined conditionally in his or her or their behalf, as prescribed in this chapter.

(b) When a defendant has been charged with a serious felony, the people may, if the defendant has been fully informed of his or her right to counsel as provided by law, have a witness examined conditionally as prescribed in this chapter if the people have evidence that the life of the witness is in jeopardy.

(c) As used in this section, "serious felony" means any of the felonies listed in subdivision (c) of Section 1192.7 or any violation of Section 11351, 11352, 11378, or 11379 of the Health and Safety Code.

SEC. 3. Section 1336 of the Penal Code is amended to read:

1336. (a) When a material witness for the defendant, or for the people, is about to leave the state, or is so sick or infirm as to afford reasonable grounds for apprehension that he or she will be unable to attend the trial, the defendant or the people may apply for an order that the witness be examined conditionally.

(b) When the people have evidence that the life of a prosecution witness is in jeopardy, the people may apply for an order that the witness be examined conditionally.

SEC. 4. Section 1337 of the Penal Code is amended to read:

1337. The application shall be made upon affidavit stating all of the following:

(1) The nature of the offense charged.

(2) The state of the proceedings in the action.

(3) The name and residence of the witness, and that his or her testimony is material to the defense or the prosecution of the action.

(4) That the witness is about to leave the state, or is so sick or infirm as to afford reasonable grounds for apprehending that he or she will not be able to attend the trial, or that the life of the witness is in jeopardy.

SEC. 5. Section 1341 of the Penal Code is amended to read:

1341. If, at the time and place so designated, it is shown to the satisfaction of the magistrate that the witness is not about to leave the state, or is not sick or infirm, or that the life of the witness is not in jeopardy, or that the application was made to avoid the examination of the witness on the trial, the examination cannot take place.

CHAPTER 784

An act to amend Section 977 of the Unemployment Insurance Code, relating to employment compensation.

[Approved by Governor September 19, 1985 Filed with Secretary of State September 19, 1985]

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

SECTION 1. Section 977 of the Unemployment Insurance Code is amended to read:

977. (a) If, as of the computation date, the employer's net balance of reserve equals or exceeds that percentage of his or her average base payroll which appears on any line in column 1 of the following table, but is less than that percentage of his or her average base payroll which appears on the same line in column 2 of that table, his or her contribution rate shall be the figure appearing on that same line in the appropriate schedule, as defined in subdivision (b), which shall be a percentage of the wages specified in Section 930.

	Reserve Ratio		Contribution Rate Schedules					
	Column	Column						
Line	1	2	A	B	C	D	E	F
01	less than -20		5.4	5.4	5.4	5.4	5.4	5.4
02	-20 to -18		5.3	5.4	5.4	5.4	5.4	5.4
03	-18 to -16		5.2	5.4	5.4	5.4	5.4	5.4
04	-16 to -14		5.1	5.3	5.4	5.4	5.4	5.4
05	-14 to -12		5.0	5.3	5.4	5.4	5.4	5.4
06	-12 to -11		4.9	5.2	5.4	5.4	5.4	5.4
07	-11 to -10		4.8	5.1	5.3	5.4	5.4	5.4
08	-10 to -09		4.7	5.1	5.3	5.4	5.4	5.4
09	-09 to -08		4.6	4.9	5.2	5.4	5.4	5.4
10	-08 to -07		4.5	4.8	5.1	5.3	5.4	5.4
11	-07 to -06		4.4	4.7	5.0	5.3	5.4	5.4
12	-06 to -05		4.3	4.6	4.9	5.2	5.4	5.4
13	-05 to -04		4.2	4.5	4.8	5.1	5.3	5.4
14	-04 to -03		4.1	4.4	4.7	5.0	5.3	5.4
15	-03 to -02		4.0	4.3	4.6	4.9	5.2	5.4
16	-02 to -01		3.9	4.2	4.5	4.8	5.1	5.4
17	-01 to 00		3.8	4.1	4.4	4.7	5.0	5.4
18	00 to 01		3.6	3.9	4.2	4.5	4.8	5.1
19	01 to 02		3.4	3.7	4.0	4.3	4.6	4.9
20	02 to 03		3.2	3.5	3.8	4.1	4.4	4.7
21	03 to 04		3.0	3.3	3.6	3.9	4.2	4.5
22	04 to 05		2.8	3.1	3.4	3.7	4.0	4.3
23	05 to 06		2.6	2.9	3.2	3.5	3.8	4.1
24	06 to 07		2.4	2.7	3.0	3.3	3.6	3.9
25	07 to 08		2.2	2.5	2.8	3.1	3.4	3.7
26	08 to 09		2.0	2.3	2.6	2.9	3.2	3.5

27	09 to 10	1.8	2.1	2.4	2.7	3.0	3.3
28	10 to 11	1.6	1.9	2.2	2.5	2.8	3.1
29	11 to 12	1.4	1.7	2.0	2.3	2.6	2.9
30	12 to 13	1.2	1.5	1.8	2.1	2.4	2.7
31	13 to 14	1.0	1.3	1.6	1.9	2.2	2.5
32	14 to 15	0.9	1.1	1.4	1.7	2.0	2.3
33	15 to 16	0.8	1.0	1.2	1.5	1.8	2.1
34	16 to 17	0.7	0.9	1.1	1.3	1.6	1.9
35	17 to 18	0.6	0.8	1.0	1.2	1.4	1.7
36	18 to 19	0.5	0.7	0.9	1.1	1.3	1.5
37	19 to 20	0.4	0.6	0.8	1.0	1.2	1.4
38	20 or more	0.3	0.5	0.7	0.9	1.1	1.3

(b) (1) Whenever the balance in the Unemployment Fund on December 31 of any calendar year is greater than 1.8 percent of the wages (as defined by Section 940) in employment subject to this part paid during the 12-month period ending upon the computation date, employers shall pay into the Unemployment Fund contributions for the succeeding calendar year upon all wages with respect to employment at the rates specified in Schedule A.

(2) Whenever the balance in the Unemployment Fund on December 31 of any calendar year is equal to or less than 1.8 percent and greater than 1.6 percent of the wages (as defined by Section 940) in employment subject to this part paid during the 12-month period ending upon the computation date, employers shall pay into the Unemployment Fund contributions for the succeeding calendar year upon all wages with respect to employment at the rates specified in Schedule B.

(3) Whenever the balance in the Unemployment Fund on December 31 of any calendar year is equal to or less than 1.6 percent and greater than 1.4 percent of the wages (as defined by Section 940) in employment subject to this part paid during the 12-month period ending upon the computation date, employers shall pay into the Unemployment Fund contributions for the succeeding calendar year upon all wages with respect to employment at the rates specified in Schedule C.

(4) Whenever the balance in the Unemployment Fund on December 31 of any calendar year is equal to or less than 1.4 percent and greater than 1.2 percent of the wages (as defined by Section 940) in employment subject to this part paid during the 12-month period ending upon the computation date, employers shall pay into the Unemployment Fund contributions for the succeeding calendar year upon all wages with respect to employment at the rates specified in Schedule D.

(5) Whenever the balance in the Unemployment Fund on December 31 of any calendar year is equal to or less than 1.2 percent and greater than 1.0 percent of the wages (as defined by Section 940) in employment subject to this part paid during the 12-month period ending upon the computation date, employers shall pay into the

Unemployment Fund contributions for the succeeding calendar year upon all wages with respect to employment at the rates specified in Schedule E.

(6) Whenever the balance in the Unemployment Fund on December 31 of any calendar year is equal to or less than 1.0 percent and greater than or equal to 0.8 percent of the wages (as defined by Section 940) in employment subject to this part paid during the 12-month period ending upon the computation date, employers shall pay into the Unemployment Fund contributions for the succeeding calendar year upon all wages with respect to employment at the rates specified in Schedule F.

CHAPTER 785

An act to amend Section 204 of the Labor Code, relating to the payment of wages.

[Approved by Governor September 19, 1985 Filed with Secretary of State September 19, 1985.]

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

SECTION 1. Section 204 of the Labor Code is amended to read:

204. All wages, other than those mentioned in Section 201, 202, 204.1, or 204.2, earned by any person in any employment are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays. Labor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and the 26th day of the month during which the labor was performed, and labor performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following month; provided, however, that salaries of executive, administrative, and professional employees of employers covered by the Fair Labor Standards Act, as set forth pursuant to Section 13(a)(1) of the Fair Labor Standards Act, as amended through March 1, 1969, in Part 541 of Title 29 of the Code of Federal Regulations, as that part now reads or may be amended to read at any time hereafter, may be paid once a month on or before the 26th day of the month during which the labor was performed if the entire month's salaries, including the unearned portion between the date of payment and the last day of the month, are paid at that time. Notwithstanding any other provision of this section, all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period.

However, when employees are covered by a collective bargaining agreement that provides different pay arrangements, those arrangements shall apply to the covered employees.

The requirements of this section shall be deemed satisfied by the payment of wages for weekly or biweekly payroll if the wages are paid not more than seven calendar days following the close of the payroll period.

CHAPTER 786

An act to amend Section 6012.8 of the Revenue and Taxation Code, relating to taxation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 19, 1985 Filed with Secretary of State September 19, 1985.]

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

SECTION 1. Section 6012.8 of the Revenue and Taxation Code is amended to read:

6012.8. (a) For the purposes of this part, "gross receipts" from the sale of a new mobilehome, and the "sales price" of a new mobilehome sold or stored, used, or otherwise consumed in this state shall be 75 percent of the sales price of the mobilehome to the retailer, if the mobilehome is sold by the retailer to the purchaser for installation on a foundation system pursuant to Section 18551 of the Health and Safety Code for occupancy as a residence, and is thereafter subject to property taxation. The retailer shall be considered to be the consumer for purposes of this part if the sale by the retailer would otherwise have been subject to sales tax and if the retailer is not also the manufacturer of the mobilehome. If the retailer of the mobilehome is the manufacturer, tax shall be measured by an amount equal to 75 percent of the sales price at which a similar mobilehome ready for installation would be sold by the manufacturer to a retailer-consumer in this state.

Notwithstanding any other provision of this part, a retailer may give a resale certificate for the purchase by the retailer of such a mobilehome and shall report the gross receipts or sales price from the purchase with the return for the period during which the mobilehome is sold to the purchaser for installation for occupancy as a residence.

Notwithstanding any other provision of this part, any retailer who is a licensed mobilehome dealer under Section 18006.2 of the Health and Safety Code is a retailer-consumer regardless of whether or not it installs the mobilehome on a foundation system as an improvement to realty. The licensed dealer may give a resale certificate for the purchase of such a mobilehome, and shall report the gross receipts or sales price from the purchase with the return for the period during which the mobilehome is installed by the licensed dealer for occupancy as a residence.

(b) For purposes of this section, a "mobilehome" is defined in Sections 18008 and 18211 of the Health and Safety Code.

(c) If a purchaser certifies in writing to a retailer that the mobilehome purchased will be consumed in a manner or for a purpose entitling the retailer to exclude 25 percent of the gross receipts or sales price to the retailer from the measure of tax, and uses the property in some other manner or for some other purpose which would not be subject to any other exclusion or exemption under this part, the purchaser shall be liable for payment of tax measured by the amount of the sales price to the purchaser less an amount equal to 75 percent of the gross receipts or sales price of the mobilehome to the retailer.

(d) There are exempted from the taxes imposed by this part, the gross receipts from the sale of, and the storage, use, or other consumption in this state of any used mobilehome, the initial retail sale of which qualified for the partial exemption from tax provided for by this section.

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

In order to prevent undue hardship to the manufactured housing industry because of an administrative ruling which has caused the loss of many thousands of dollars to mobilehome manufacturers and to avoid the loss of many millions of dollars to local communities where mobilehomes are sold, it is necessary for this act to take effect immedately.

CHAPTER 787

An act to amend Section 14170 of the Welfare and Institutions Code, and to amend Section 2.5 of Chapter 19 of the Statutes of 1978, relating to the medical assistance program, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 19, 1985 Filed with Secretary of State September 19, 1985.]

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

SECTION 1. Section 14170 of the Welfare and Institutions Code is amended to read:

14170. Amounts paid for services provided to Medi-Cal beneficiaries shall be audited by the department in the manner and form prescribed by it. The department shall maintain adequate controls to insure responsibility and accountability for the expenditure of federal and state funds. Cost reports and other data submitted by providers to a state agency for the purpose of

determining reasonable costs for services or establishing rates of payment shall be considered true and correct unless audited or reviewed by the department within 18 months after July 1, 1969, the close of the period covered by the report, or after the date of submission of the original or amended report by the provider, whichever is later; provided, however, that cost reports and other data for cost reporting periods beginning on January 1, 1972, and thereafter shall be considered true and correct unless audited or reviewed within three years after the close of the period covered by the report, or after the date of submission of the original or amended report by the provider, whichever is later.

Nothing in this section shall be construed to limit the correction of cost reports or rates of payment when inaccuracies are determined to be the result of intent to defraud, or when a delay in the completion of an audit is the result of willful acts by the provider or inability to reach agreement on the terms of final settlement.

Notwithstanding any other provision of law, skilled nursing facilities and intermediate care facilities which have received and are receiving funds for salary increases pursuant to Sections 14110.6 and 14110.7 shall maintain payroll and personnel records for examination by auditors from the department and the Labor Commissioner beginning March 1985 until the records have been audited, or until December 31, 1992, whichever occurs first.

SEC. 2. Section 2.5 of Chapter 19 of the Statutes of 1978 is amended to read:

Sec. 2.5. (a) The Labor Commissioner is hereby authorized to audit payroll and personnel records of skilled nursing facilities and intermediate care facilities for the purposes of ensuring compliance with the wage levels provided for in this chapter.

(b) The Labor Commissioner is hereby authorized to recover from the skilled nursing facility or the intermediate care facility any wages less than the minimum provided for in this chapter. The recovered funds shall be provided to the employees who were underpaid.

(c) The Labor Commissioner may recover any funds not used for increases in wages pursuant to Sections 14110.6 and 14110.7 of the Welfare and Institutions Code. The recovered funds shall be provided to the employees who were underpaid. All penalties collected pursuant to these sections shall be forwarded to the Controller for deposit in the General Fund.

(d) The Labor Commissioner is hereby authorized to impose any other penalties within his or her powers against any skilled nursing facility or intermediate care facility that is in violation of the wage requirements of this chapter. The amount of any penalties already paid to the State Department of Health Services pursuant to this chapter shall be deducted from the amount of any unpaid penalties imposed by the Labor Commissioner pursuant to this chapter. The amount of any penalties already paid to the Labor Commissioner pursuant to this chapter shall be deducted from the amount of any

unpaid penalties imposed by the State Department of Health Services pursuant to this chapter.

(e) Any evidence of failure to pay wage rates as provided for by this chapter shall be provided to the Labor Commissioner.

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:

Chapter 10 of the Statutes of 1985, which took effect immediately, increased payment rates for certain long-term health care facilities providing Medi-Cal services to be used to implement wage increases and benefit increases provided under the chapter and for specified increases in staff and service hours for these facilities required by the chapter. This act permits the Labor Commissioner to recover any funds not used for these purposes, and it is therefore necessary that this act take effect immediately.

CHAPTER 788

An act to amend Sections 51222 and 66474.4 of the Government Code, relating to land use.

[Approved by Governor September 19, 1985. Filed with Secretary of State September 19, 1985.]

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

SECTION 1. Section 51222 of the Government Code is amended to read:

51222. The Legislature further declares that it is in the public interest for local officials and landowners to retain agricultural lands which are subject to contracts entered into pursuant to this act in parcels large enough to sustain agricultural uses permitted under the contracts. For purposes of this section, agricultural land shall be presumed to be in parcels large enough to sustain their agricultural use if the land is (1) at least 10 acres in size in the case of prime agricultural land, or (2) at least 40 acres in size in the case of land which is not prime agricultural land.

This section 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. Section 66474.4 of the Government Code is amended to read:

66474.4. (a) The legislative body of a city or county shall deny approval of a tentative map, or a parcel map for which a tentative map was not required, if it finds that the land is subject to a contract entered into pursuant to the California Land Conservation Act of 1965 (Chapter 7 (commencing with Section 51200) of Division 1 of

Title 5) and that the resulting parcels following a subdivision of that land would be too small to sustain their agricultural use. For purposes of this section, land shall be presumed to be in parcels too small to sustain their agricultural use if the land is (1) less than 10 acres in size in the case of prime agricultural land, or (2) less than 40 acres in size in the case of land which is not prime agricultural land. For purposes of this section, agricultural land shall be presumed to be in parcels large enough to sustain their agricultural use if the land is (1) at least 10 acres in size in the case of prime agricultural land, or (2) at least 40 acres in size in the case of land which is not prime agricultural land.

(b) A legislative body may approve a subdivision with parcels smaller than those specified in this section if the legislative body makes either of the following findings:

(1) The parcels can nevertheless sustain an agricultural use permitted under the contract, or are subject to a written agreement for joint management pursuant to Section 51230.1, provided that the parcels which are jointly managed total at least 10 acres in size in the case of prime agricultural land or 40 acres in size in the case of land which is not prime agricultural land.

(2) One of the parcels contains a residence and is subject to Section 428 of the Revenue and Taxation Code; the residence has existed on the property for at least five years; the landowner has owned the parcels for at least 10 years; and the remaining parcels shown on the map are at least 10 acres in size if the land is prime agricultural land, or at least 40 acres in size if the land is not prime agricultural land.

(c) No other homesite parcels as described in paragraph (2) of subdivision (b) may be created on any remaining parcels under contract for at least 10 years following the creation of a homesite parcel pursuant to this section.

(d) This section shall not apply to land which is subject to a contract when any of the following has occurred:

(1) A local agency formation commission has approved the annexation of the land to a city and the city will not succeed to the contract as provided in Sections 51243 and 51243.5.

(2) Written notice of nonrenewal of the contract has been served prior to March 7, 1985, as provided in Section 51245.

(3) Written notice of nonrenewal of the contract has been served on or after March 7, 1985, as provided in Section 51245, and, as a result of that notice, there are no more than three years remaining in the term of the contract.

(4) The board or council has granted tentative approval for cancellation of the contract as provided in Section 51282.

(e) This section shall not be construed as limiting the power of legislative bodies to establish minimum parcel sizes larger than those specified in subdivision (a).

(f) This section 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.

CHAPTER 789

An act relating to hazardous materials.

[Approved by Governor September 19, 1985 Filed with Secretary of State September 19, 1985.]

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

SECTION 1. The Department of the California Highway Patrol, in cooperation with the Department of Transportation and the State Department of Health Services, shall investigate and study the risks to public health and safety presented by the transportation on the highways of hazardous materials, as defined by Section 353 of the Vehicle Code, in urban areas during heavy traffic commute periods.

The Department of the California Highway Patrol shall prepare and submit to the Legislature, on or before January 1, 1987, a report of its findings and recommendations including, but not limited to, any need for restrictions on that transportation during certain hours and in certain urban areas.

CHAPTER 790

An act to add Section 1502.2 to the Health and Safety Code, relating to community care facilities.

[Approved by Governor September 19, 1985. Filed with Secretary of State September 19, 1985.]

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

SECTION 1. Section 1502.2 is added to the Health and Safety Code, to read:

1502.2. For purposes of this chapter, a "community care facility" pursuant to Section 1502 includes a social day care facility. A "social day care facility" means a community-based group program designed to meet the needs of functionally impaired adults through an individual plan of care in a structured comprehensive program that provides a variety of social and related support services in a protective setting on less than a 24-hour basis.

SEC. 2. Reimbursement to local agencies and school districts for costs mandated by the state pursuant to this act shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code and, if the statewide cost of the claim for reimbursement does not exceed five hundred thousand

dollars ($500,000), shall be made from the State Mandates Claims Fund.

CHAPTER 791

An act to amend Section 19464 of the Business and Professions Code, relating to horseracing.

[Approved by Governor September 19, 1985 Filed with Secretary of State September 19, 1985]

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

SECTION 1. Section 19464 of the Business and Professions Code is amended to read:

19464. (a) No application for a horse owner's license or for a license to conduct a race meeting shall be granted unless the applicant's liability for workers' compensation is secured in accordance with Division 4 (commencing with Section 3700) of the Labor Code. Any termination of security for that liability during the period of a license shall result in the immediate automatic suspension of the license during the period of that termination and also shall be a ground for revocation of the license.

(b) No application for a license to conduct a race meeting shall be granted unless the applicant has deposited with the board a surety bond in the amount of one hundred thousand dollars ($100,000), or a greater amount, as determined by the board, which is sufficient to ensure payment of employee wages and benefits including, but not limited to, health, welfare, and pension plans. The surety bond shall be maintained during the period of the meeting and for an additional period, as determined by the board, sufficient to assure that all payments are made. In the event of a dispute over the amount owed, the dispute shall be resolved through the grievance procedures set forth in the labor agreement of the union representing the class of employees affected.

For the purposes of this subdivision, an insured certificate of deposit payable to the Treasurer of the State of California shall be considered equivalent to a surety bond and shall be acceptable to the board upon such terms and conditions as it may prescribe. Interest paid to the state on the certificate of deposit shall be refunded to the applicant.

This subdivision does not apply to any person or association licensed to operate a horse race meeting prior to January 1, 1986, which has conducted a race meeting in each of the immediate three previous consecutive calendar years.

SEC. 2. Section 19464 of the Business and Professions Code is amended to read:

19464. (a) No application for a horse owner's license or for a

license to conduct a race meeting or operate a racing theater shall be granted unless the applicant's liability for workers' compensation is secured in accordance with Division 4 (commencing with Section 3700) of the Labor Code. Any termination of security for that liability during the period of a license shall result in the immediate automatic suspension of the license during the period of that termination and also shall be a ground for revocation of the license.

(b) No application for a license to conduct a race meeting or operate a racing theater shall be granted unless the applicant has deposited with the board a surety bond in the amount of one hundred thousand dollars ($100,000), or a greater amount, as determined by the board, which is sufficient to ensure payment of employee wages and benefits including, but not limited to, health, welfare, and pension plans. The surety bond shall be maintained during the period of the meeting and for an additional period, as determined by the board, sufficient to assure that all payments are made. In the event of a dispute over the amount owed, the dispute shall be resolved through the grievance procedures set forth in the labor agreement of the union representing the class of employees affected.

For the purposes of this subdivision, an insured certificate of deposit payable to the Treasurer of the State of California shall be considered equivalent to a surety bond and shall be acceptable to the board upon such terms and conditions as it may prescribe. Interest paid to the state on the certificate of deposit shall be refunded to the applicant.

This subdivision does not apply to any person or association licensed to operate a horse race meeting prior to January 1, 1986, which has conducted a race meeting in each of the immediate three previous consecutive calendar years.

SEC. 3. Section 2 of this bill shall become operative only if both Senate Bill 590 and Senate Bill 763 are enacted in the 1985–86 Regular Session. If either bill is not enacted, then Section 1 of this bill shall become operative.

CHAPTER 792

An act to amend Sections 488, 11580.06, 11580.2, 11580.26, and 11583 of the Insurance Code, relating to liability insurance.

[Approved by Governor September 19, 1985. Filed with Secretary of State September 19, 1985]

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

SECTION 1. Section 488 of the Insurance Code is amended to read:

488. No insurer shall, in issuing or renewing a private passenger

automobile insurance policy, increase the premium on that policy for the reason that the insured or applicant for insurance has been convicted for traffic violations committed while operating a motor vehicle for compensation during the hours of his employment if, with respect to a conviction, the employee or applicant has submitted to the insurer a written declaration made by the employee under penalty of perjury that the applicant or insured was, at that time, operating a motor vehicle for compensation during the hours of his or her employment. This section applies only to those individuals whose specific duties include driving their employer's motor vehicles or individuals who have authority in their name from the Public Utilities Commission to operate as a highway carrier and who are the registered owners or lease operators of the motor vehicle used in the operation as a highway carrier.

This section does not apply to any insured or applicant for insurance convicted of any of the following:

(a) Homicide or assault arising out of the operation of a motor vehicle for compensation during the hours of employment.

(b) A violation while operating a motor vehicle for compensation during the hours of employment of any of the following sections or section subdivisions of the Vehicle Code:

(1) Subdivision (a) of Section 14601.

(2) Subdivision (a) of Section 14601.1.

(3) Subdivision (a) of Section 14601.2.

(4) Section 20001 or 20002.

(5) Subdivision (a) of Section 20008.

(6) Section 23103, 23104, 23152, or 23153.

This section shall not apply to any person insured under the California assigned risk plan prescribed by Article 4 (commencing with Section 11620), Chapter 1, Part 3, Division 2 of this code.

SEC. 2. 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. The person shall be conclusively presumed to be the sole operator of the motor vehicle.

(g) The term "use" when applied to a motor vehicle shall only mean operating, maintaining, loading, or unloading a motor vehicle.

(h) The word "terms" when used with reference to a policy or endorsement includes the provision of coverage, exclusions, restrictions, conditions, deductions, and limits.

SEC. 3. 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 or a resident of the same household. An uninsured motor vehicle includes an underinsured motor vehicle as defined in subdivision (p) of Section 11580.2 of the Insurance Code."

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 if the named insured is an individual 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; as used in (a) above, if the named insured is an entity other than an individual, the term "insured" means any 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. As used in this subdivision, the word "individual" shall not include persons doing business as corporations, partnerships, or associations. 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 or furnished for the regular use of 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 an "underinsured motor vehicle" as defined in subdivision (p), 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 Financial 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 while located for use as a residence or premises and not as a vehicle, or any equipment or vehicle designed or modified for use primarily 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.

Nothing in this section is intended to exclude from the definition of an uninsured motor vehicle any motorcycle or private passenger type four wheel drive motor vehicle if that vehicle was subject to and failed to comply with the Financial Responsibility Law of this state.

(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. "Motor vehicle" as used in this paragraph means any self-propelled 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, including any amounts tendered to the insured as advance payment on behalf of such other person by the insurer providing the underlying liability insurance.

(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) Underinsured motorist coverage shall be offered with limits equal to the limits of liability for the insured's uninsured motorist limits in the underlying policy, and may be offered with limits in excess of such uninsured motorist coverage. For the purposes of this section, uninsured and underinsured motorist coverage shall be offered as a single coverage. However, an insurer may offer coverage for damages for bodily injury or wrongful death from the owner or operator of an underinsured motor vehicle at greater limits than an uninsured motor vehicle.

(o) 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.

(p) This subdivision applies only when bodily injury, as defined in subdivision (b), is caused by an underinsured motor vehicle. If the provisions of this subdivision conflict with subdivisions (a) through (o), the provisions of this subdivision shall prevail.

(1) As used in this subdivision, "an insured motor vehicle" is one that is insured under a motor vehicle liability policy, or automobile liability insurance policy, self-insured, or for which a cash deposit or bond has been posted to satisfy a financial responsibility law.

(2) "Underinsured motor vehicle" means a motor vehicle that is an insured motor vehicle but insured for an amount that is less than

the uninsured motorist limits carried on the motor vehicle of the injured person.

(3) This coverage does not apply to any bodily injury until the limits of bodily injury liability policies applicable to all insured motor vehicles causing the injury have been exhausted by payment of judgments or settlements, and proof of such is submitted to the insurer providing the underinsured motorist coverage.

(4) When bodily injury is caused by one or more motor vehicles, whether insured, underinsured, or uninsured, the maximum liability of the insurer providing the underinsured motorist coverage shall not exceed the insured's underinsured motorist coverage limits, less the amount paid to the insured by or for any person or organization that may be held legally liable for the injury.

(5) The insurer paying a claim under this subdivision shall, to the extent of such payment, be entitled to reimbursement or credit in the amount received by the insured from the owner or operator of the underinsured motor vehicle or the insurer of such owner or operator.

(6) If the insured brings an action against the owner or operator of an underinsured motor vehicle, he or she shall forthwith give to the insurer providing the underinsured motorist coverage a copy of the complaint by personal service or certified mail. All pleadings and depositions shall be made available for copying or copies furnished the insurer, at the insurer's expense, within a reasonable time.

(7) Underinsured motorist coverage shall be included in all policies of bodily injury liability insurance providing uninsured motorist coverage issued or renewed on or after July 1, 1985. Notwithstanding this section, an agreement to delete uninsured motorist coverage completely, or with respect to a person or persons designated by name, executed prior to July 1, 1985, shall remain in full force and effect.

(q) Regardless of the number of vehicles involved whether insured or not, persons covered, claims made, premiums paid or the number of premiums shown on the policy, in no event shall the limit of liability for two or more motor vehicles or two or more policies be added together, combined, or stacked to determine the limit of insurance coverage available to injured persons.

SEC. 4. Section 11580.26 of the Insurance Code is amended 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 bodily injury 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 for loss or damage to the insured motor vehicle resulting from collision, not to exceed its actual cash value or three thousand five hundred dollars ($3,500), whichever is less, for which loss or damage the insured is legally entitled to recover from the owner or operator of an uninsured motor vehicle. Property damage 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 payable under the terms and conditions set forth in the policy, and 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 10 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, when the insured has formally instituted arbitration proceedings within one year from the date of the accident, that the insured is legally entitled to recover the amount of the 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 or the insurer and any named insured may agree in writing to waive this coverage when a motor vehicle is used or operated by a person or persons designated by name. 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 damage to the insured motor vehicle to the extent that payment was made. The action may be brought within three years from the date that payment was made pursuant to this section.

In the event of a covered loss to a vehicle that is insured for the coverage described in paragraph (2) of subdivision (a) and also insured for collision coverage, the collision coverage shall pay for the covered loss and the insurance described in paragraph (2) of subdivision (a) shall only pay any deductible not covered by the collision coverage not to exceed three thousand five hundred dollars ($3,500).

(e) As used in this section, "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 the 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, "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, "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) Any insurer whose insured has made a claim under either coverage provided in paragraphs (1) and (2) of subdivision (a), and that 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 property damage. Failure of the insurer to provide the written notice shall operate to toll any applicable statute of limitation until 30 days after 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.

(h) This section shall remain in effect only until January 1, 1989, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1989, deletes or extends such date.

SEC. 5. Section 11583 of the Insurance Code is amended to read:

11583. No advance payment or partial payment of damages made by any person, or made by his insurer under liability insurance as defined in subdivision (a) of Section 108, as an accommodation to an injured person or on his behalf to others or to the heirs at law or dependents of a deceased person because of an injury or death claim or potential claim against any person or insured shall be construed as an admission of liability by the person claimed against, or of that person's or the insurer's recognition of such liability, with respect to such injured or deceased person or with respect to any other claim arising from the same accident or event. Any such payments shall, however, constitute a credit and be deductible from any final settlement made or judgment rendered with respect to such injured or deceased person which does not expressly take into account such advance payments. Any person, including any insurer, who makes such an advance or partial payment, shall at the time of beginning payment, notify the recipient thereof in writing of the statute of limitations applicable to the cause of action which such recipient may bring against such person as a result of such injury or death, including any time limitations within which claims are required to be made

against the state or any local public entity when such payments are made on behalf of such public entities. Failure to provide such written notice shall operate to toll any such applicable statute of limitations or time limitations from the time of such advance or partial payment until such written notice is actually given. That notification shall not be required if the recipient is represented by an attorney.

CHAPTER 793

An act to amend Section 54790 of, and to add Section 54790.6 to, the Government Code, relating to land use planning.

[Approved by Governor September 19, 1985. Filed with Secretary of State September 19, 1985.]

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

SECTION 1. Section 54790 of the Government Code, as amended by Section 1 of Chapter 1302 of the Statutes of 1984, is amended to read:

54790. The commission shall have the following powers and duties, subject to the limitations upon its jurisdiction herein set forth:

(a) To review and approve or disapprove with or without amendment, wholly, partially, or conditionally proposals for:

(1) The incorporation of cities.

(2) The formation of special districts.

(3) The annexation of territory to local agencies, (other than local agencies the annexation of territory to which is required to be made pursuant to the provisions of Division 1 (commencing with Section 56000) of Title 6); provided, however, that a commission shall not have the power to disapprove an annexation, initiated by resolution, of contiguous territory which the commission finds is either (1) surrounded or substantially surrounded by the city to which the annexation is proposed or by such city and a county boundary or the Pacific Ocean if the territory to be annexed is substantially developed or developing, is not prime agricultural land as defined in Section 35046, and is designated for urban growth by the general plan of the annexing city or, (2) located within an urban service area which has been delineated and adopted by a commission, which is not prime agricultural land, as defined in Section 35046 and is designated for urban growth by the general plan of the annexing city. A commission shall not impose any conditions which would directly regulate land use density or intensity, property development, or subdivision requirements. When the development purposes are not made known to the annexing agency, the annexation shall be reviewed on the basis of the adopted plans and policies of the annexing agency. Nothing in this paragraph, however, shall be

construed as prohibiting a commission from requiring, as a condition to annexation, that a city prezone the territory to be annexed provided that the commission shall not specify how, or in what manner, the territory shall be prezoned.

(4) The exclusion of territory from a city.

(5) The disincorporation of a city.

(6) The consolidation of two or more cities.

(7) The development of new communities within the jurisdiction of the commission pursuant to Sections 33021 and 33298 of the Health and Safety Code.

(b) To adopt procedures for the evaluation of proposals. The commission may adopt standards for any of the factors enumerated in Section 54796.

(c) To make and enforce rules and regulations for the orderly and fair conduct of hearings by the commission.

(d) To incur usual and necessary expenses for the accomplishment of its functions.

(e) To appoint and assign staff personnel and to employ or contract for professional or consulting services to carry out and effect the functions of the commission.

(f) To review the boundaries of the territory involved in any proposal with respect to the definiteness and certainty thereof, the nonconformance of proposed boundaries with lines of assessment or ownership, and other similar matters affecting the proposed boundaries.

(g) To waive the restrictions of Section 35010 if it finds that the application of the restrictions would be detrimental to the orderly development of the community and that the area that would be enclosed by the annexation or incorporation is so located that it cannot reasonably be annexed to another city or incorporated as a new city.

(h) To waive the application of Section 25210.90 if it finds the application would deprive an area of a service needed to insure the health, safety, or welfare of the area's residents and if it finds that such waiver would not affect the ability of a city to provide any service; provided, however, that within 60 days of the inclusion of the territory within the city, the governing body may adopt a resolution nullifying the waiver.

This section shall remain in effect only until January 1, 1988, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1988, deletes or extends such date.

SEC. 2. Section 54790 of the Government Code, as amended by Section 2 of Chapter 1302 of the Statutes of 1984, is amended to read:

54790. The commission shall have the following powers and duties, subject to the limitations upon its jurisdiction herein set forth:

(a) To review and approve or disapprove with or without amendment, wholly, partially, or conditionally proposals for:

(1) The incorporation of cities.

(2) The formation of special districts.

(3) The annexation of territory to local agencies, (other than local agencies the annexation of territory to which is required to be made pursuant to the provisions of Division 1 (commencing with Section 56000) of Title 6); provided that a commission shall not impose any conditions which would directly regulate land use density or intensity, property development, or subdivision requirements. When the development purposes are not made known to the annexing agency, the annexation shall be reviewed on the basis of the adopted plans and policies of the annexing agency. Nothing in this paragraph, however, shall be construed as prohibiting a commission from requiring, as a condition to annexation, that a city prezone the territory to be annexed provided that the commission shall not specify how, or in what manner, the territory shall be prezoned.

(4) The exclusion of territory from a city.

(5) The disincorporation of a city.

(6) The consolidation of two or more cities.

(7) The development of new communities within the jurisdiction of the commission pursuant to Sections 33021 and 33298 of the Health and Safety Code.

(b) To adopt procedures for the evaluation of proposals. The commission may adopt standards for any of the factors enumerated in Section 54796.

(c) To make and enforce rules and regulations for the orderly and fair conduct of hearings by the commission.

(d) To incur usual and necessary expenses for the accomplishment of its functions.

(e) To appoint and assign staff personnel and to employ or contract for professional or consulting services to carry out and effect the functions of the commission.

(f) To review the boundaries of the territory involved in any proposal with respect to the definiteness and certainty thereof, the nonconformance of proposed boundaries with lines of assessment or ownership, and other similar matters affecting the proposed boundaries.

(g) To waive the restrictions of Section 35010 if it finds that the application of the restrictions would be detrimental to the orderly development of the community and that the area that would be enclosed by the annexation or incorporation is so located that it cannot reasonably be annexed to another city or incorporated as a new city.

(h) To waive the application of Section 25210.90 if it finds the application would deprive an area of a service needed to insure the health, safety, or welfare of the area's residents and if it finds that such waiver would not affect the ability of a city to provide any service; provided, however, that within 60 days of the inclusion of the territory within the city, the governing body may adopt a resolution nullifying the waiver.

This section shall become operative January 1, 1988.

SEC. 3. Section 54790.6 is added to the Government Code, to

read:

54790.6. (a) The commission shall not impose any condition on an annexing local agency with respect to the standards or frequency of maintenance of any existing street or road within the annexed territory.

(b) The commission shall not impose a condition which requires a local agency to improve an existing public facility which is not owned by the agency.

(c) This section shall not be construed as authorizing a commission to impose any conditions which it is not otherwise authorized to impose.

CHAPTER 794

An act to amend Sections 18500, 18521, 18529, 18546, 18547, 18597, 18670, 18702, 18703, 19050, 19062, 19130, 19142, 19253.5, 19570, 19590, 19590.5, 19702.2, and 19994.1 of, to amend and renumber the headings of Chapters 4 (commencing with Section 18150) and 5 (commencing with Section 18200) of Part 1 of, Article 4.5 (commencing with Section 19130) of Chapter 6 of, Article 4.5 (commencing with Section 19400) of Chapter 7 of, Article 4 (commencing with Section 19590) of Chapter 8 of, and Article 4 (commencing with Section 19760) of Chapter 10 of, Chapters 5 (commencing with Section 18900), 6 (commencing with Section 19050), 7 (commencing with Section 19251), 8 (commencing with Section 19570), 8.5 (commencing with Section 19600), and 8.7 (commencing with Section 19610) of, Part 2 of, Division 5 of Title 2 of, and to repeal Sections 18539, 18539.5, 18548, 18548.1, and 18548.2 of, the Government Code, relating to state government.

[Approved by Governor September 19, 1985 Filed with Secretary of State September 19, 1985.]

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

SECTION 1. The heading of Chapter 4 (commencing with Section 18150) of Part 1 of Division 5 of Title 2 of the Government Code is amended and renumbered to read:

CHAPTER 2. OATHS FOR STATE EMPLOYEES

SEC. 2. The heading of Chapter 5 (commencing with Section 18200) of Part 1 of Division 5 of Title 2 of the Government Code is amended and renumbered to read:

CHAPTER 3. LOYALTY

SEC. 3. Section 18500 of the Government Code is amended to read:

18500. It is the purpose of this part:

(a) To facilitate the operation of Article VII of the Constitution.

(b) To promote and increase economy and efficiency in the state service.

(c) To provide a comprehensive personnel system for the state civil service, in which:

(1) Positions involving comparable duties and responsibilities are similarly classified and compensated.

(2) Appointments are based upon merit and fitness ascertained through practical and competitive examination.

(3) State civil service employment is made a career by providing for security of tenure and the advancement of employees within the service insofar as consistent with the best interests of the state.

(4) The rights and interests of the state civil service employee are given consideration insofar as consistent with the best interests of the state.

(5) A high morale is developed among state civil service employees by providing adequately for leaves of absence, vacations, and other considerations for the general welfare of the employees.

(6) Tenure of civil service employment is subject to good behavior, efficiency, the necessity of the performance of the work, and the appropriation of sufficient funds.

SEC. 4. Section 18521 of the Government Code is amended to read:

18521. "Board" means the agency created by Section 2 of Article VII of the Constitution and includes the "State Personnel Board" provided in Section 2(a) and the "executive officer" provided in Section 2(c) thereof.

SEC. 5. Section 18529 of the Government Code is amended to read:

18529. "Temporary employee" means an employee holding a position under temporary appointment. "Temporary appointment" means an appointment made in the absence of any appropriate employment list permitted by Section 5 of Article VII of the Constitution.

SEC. 6. Section 18539 of the Government Code is repealed.

SEC. 7. Section 18539.5 of the Government Code is repealed.

SEC. 8. Section 18546 of the Government Code is amended to read:

18546. "Career executive" means an employee appointed from an employment list established for the express purpose of providing a list of persons with permanent status in the civil service who are available for career executive assignments, in which selection, classification, salary, tenure, and other conditions of employment may be varied from those prevailing under Chapters 3 (commencing

with Section 18800) through 7 (commencing with Section 19570) for other employees in the state civil service.

SEC. 9. Section 18547 of the Government Code is amended to read:

18547. "Career executive assignment" means an appointment to a high administrative and policy influencing position within the state civil service in which the incumbent's primary responsibility is the managing of a major function or the rendering of management advice to top-level administrative authority. Such a position can be established only in the top managerial levels of state service and is typified by broad responsibility for policy implementation and extensive participation in policy evolvement. Assignment by appointment to such a position does not confer any rights or status in the position other than provided in Article 9 (commencing with Section 19889) of Chapter 2.5 of Part 2.6.

SEC. 10. Section 18548 of the Government Code is repealed.

SEC. 11. Section 18548.1 of the Government Code is repealed.

SEC. 12. Section 18548.2 of the Government Code is repealed.

SEC. 13. Section 18597 of the Government Code is amended to read:

18597. The "state civil service" shall include all teachers who have been employed for a period of six months at the Orientation Center for the Blind who are now excluded under subdivision (i) of Article VII of the Constitution.

SEC. 14. Section 18670 of the Government Code is amended to read:

18670. The board may hold hearings and make investigations concerning all matters relating to the enforcement and effect of this part and rules prescribed hereunder. It may inspect any state institution, office, or other place of employment affected by this part to ascertain whether this part and the board rules are obeyed.

The board shall make investigations and hold hearings at the direction of the Governor or the Legislature or upon the petition of an employee or a citizen concerning the enforcement and effect of this part and to enforce the observance of Article VII of the Constitution and of this part and the rules made under this part.

SEC. 15. Section 18702 of the Government Code is amended to read:

18702. The board shall create and adjust classes of positions in the state civil service in accordance with Article VII of the Constitution and this part.

SEC. 16. Section 18703 of the Government Code is amended to read:

18703. The board shall provide for dismissals, demotions, suspensions, and other punitive action for or in the state civil service in accordance with Article VII of the Constitution and this part.

SEC. 17. The heading of Chapter 5 (commencing with Section 18900) of Part 2 of Division 5 of Title 2 of the Government Code is amended and renumbered to read:

CHAPTER 4. EMPLOYMENT LISTS

SEC. 18. The heading of Chapter 6 (commencing with Section 19050) of Part 2 of Division 5 of Title 2 of the Government Code is amended and renumbered to read:

CHAPTER 5. APPOINTMENTS

SEC. 19. Section 19050 of the Government Code is amended to read:

19050. The appointing power in all cases not excepted or exempted by virtue of Article VII of the Constitution shall fill positions by appointment, including cases of transfers, reinstatements, promotions, and demotions, in strict accordance with this part and the rules prescribed from time to time under this part, and not otherwise. Except as provided in this part, appointments to vacant positions shall be made from employment lists.

SEC. 20. Section 19062 of the Government Code is amended to read:

19062. If there are no vacancies in the appropriate journeyman trade-rate class, the employee completing an apprenticeship under Section 19061 shall be afforded the opportunity to elect one of the following:

(a) If the employee's seniority rating at the time of appointment to the appropriate journeyman trade-rate class is higher than that of any journeyman holding a permanent appointment in the appropriate journeyman trade-rate class, the employee shall be appointed to a permanent position.

(b) If there is a reemployment list for the appropriate journeyman trade-rate class, the employee shall be placed on the reemployment list of that class. The position of the employee on the reemployment list shall be established by provisions of Section 19997.3 at the time of the employee's appointment to the appropriate journeyman trade-rate class.

(c) Demotion under Section 19997.8.

SEC. 21. The heading of Article 4.5 (commencing with Section 19130) of Chapter 6 of Part 2 of Division 5 of Title 2 of the Government Code is amended and renumbered to read:

Article 4. Personal Services Contracts

SEC. 22. Section 19130 of the Government Code is amended to read:

19130. The purpose of this article is to establish standards for the use of personal services contracts.

(a) Personal services contracting is permissible to achieve cost savings when all the following conditions are met:

(1) The contracting agency clearly demonstrates that the

proposed contract will result in actual overall cost savings to the state, provided that:

(A) In comparing costs, there shall be included the state's additional cost of providing the same service as proposed by a contractor. These additional costs shall include the salaries and benefits of additional staff that would be needed and the cost of additional space, equipment, and materials needed to perform the function.

(B) In comparing costs, there shall not be included the state's indirect overhead costs unless these costs can be attributed solely to the function in question and would not exist if that function was not performed in state service. Indirect overhead costs shall mean the pro rata share of existing administrative salaries and benefits, rent, equipment costs, utilities, and materials.

(C) In comparing costs, there shall be included in the cost of a contractor providing a service any continuing state costs that would be directly associated with the contracted function. These continuing state costs shall include, but not be limited to, those for inspection, supervision, and monitoring.

(2) Proposals to contract out work shall not be approved solely on the basis that savings will result from lower contractor pay rates or benefits. Proposals to contract out work shall be eligible for approval if the contractor's wages are at the industry's level and do not significantly undercut state pay rates.

(3) The contract does not cause the displacement of civil service employees. The term "displacement" includes layoff, demotion, involuntary transfer to a new class, involuntary transfer to a new location requiring a change of residence, and time base reductions. Displacement does not include changes in shifts or days off, nor does it include reassignment to other positions within the same class and general location.

(4) The contract does not adversely affect the state's affirmative action efforts.

(5) The savings shall be large enough to ensure that they will not be eliminated by private sector and state cost fluctuations that could normally be expected during the contracting period.

(6) The amount of savings clearly justify the size and duration of the contracting agreement.

(7) The contract is awarded through a publicized, competitive bidding process.

(8) The contract includes specific provisions pertaining to the qualifications of the staff that will perform the work under the contract, as well as assurance that the contractor's hiring practices meet applicable nondiscrimination, affirmative action standards.

(9) The potential for future economic risk to the state from potential contractor rate increases is minimal.

(10) The contract is with a firm. A "firm" means a corporation, partnership, nonprofit organization, or sole proprietorship.

(11) The potential economic advantage of contracting is not

outweighed by the public's interest in having a particular function performed directly by state government.

(b) Personal services contracting also shall be permissible when any of the following conditions can be met:

(1) The functions contracted are exempted from civil service by Section 4 of Article VII of the California Constitution, which describes exempt appointments.

(2) The contract is for a new state function and the Legislature has specifically mandated or authorized the performance of the work by independent contractors.

(3) The services contracted are not available within civil service, cannot be performed satisfactorily by civil service employees, or are of such a highly specialized or technical nature that the necessary expert knowledge, experience, and ability are not available through the civil service system.

(4) The services are incidental to a contract for the purchase or lease of real or personal property. Contracts under this criterion, known as "service agreements," shall include, but not be limited to, agreements to service or maintain office equipment or computers that are leased or rented.

(5) The legislative, administrative, or legal goals and purposes cannot be accomplished through the utilization of persons selected pursuant to the regular civil service system. Contracts are permissible under this criterion to protect against a conflict of interest or to insure independent and unbiased findings in cases where there is a clear need for a different, outside perspective. These contracts shall include, but not be limited to, obtaining expert witnesses in litigation.

(6) The nature of the work is such that the Government Code standards for emergency appointments apply. These contracts shall conform with Article 8 (commencing with Section 19888) of Chapter 2.5 of Part 2.6.

(7) State agencies need private counsel because a conflict of interest on the part of the Attorney General's office prevents it from representing the agency without compromising its position. These contracts shall require the written consent of the Attorney General, pursuant to Section 11040.

(8) The contractor will provide equipment, materials, facilities, or support services that could not feasibly be provided by the state in the location where the services are to be performed.

(9) The contractor will conduct training courses for which appropriately qualified civil service instructors are not available, provided that permanent instructor positions in academies or similar settings shall be filled through civil service appointment.

(10) The services are of such an urgent, temporary, or occasional nature that the delay incumbent in their implementation under civil service would frustrate their very purpose.

(c) All persons who provide services to the state under conditions the board determines constitute an employment relationship shall,

unless exempted from civil service by Section 4 of Article VII of the California Constitution, be retained under an appropriate civil service appointment.

SEC. 23. Section 19142 of the Government Code is amended to read:

19142. Every person accepts and holds a position in the state civil service subject to mandatory reinstatement of another person.

Upon reinstatement of such a person any necessary separations are effected under the provisions of this part governing layoff and demotion except that (1) an employee who is not to be separated from state service need not receive advance notification as provided in Section 19997.13, and (2) seniority shall not be counted as provided in Section 19997.3 when this would result in the layoff of the person who has the reinstatement right. Under such a circumstance, qualifying service in classes at substantially the same or higher salary level is the only state service that shall be counted for purposes of determining who is to be separated.

SEC. 24. The heading of Chapter 7 (commencing with Section 19251) of Part 2 of Division 5 of Title 2 of the Government Code is amended and renumbered to read:

CHAPTER 6. SERVICE

SEC. 25. Section 19253.5 of the Government Code is amended to read:

19253.5. (a) In accordance with board rule, the appointing power may require an employee to submit to a medical examination by a physician or physicians designated by the appointing power to evaluate the capacity of the employee to perform the work of his or her position.

(b) Fees for the examination and for the services of medical specialists or technicians, if necessary, shall be paid by the state agency. The employee may submit medical or other evidence to the examining physician or to the appointing power. The examining physician shall make a written report of the examination to the appointing power. The appointing power shall provide a copy to the physician designated by the employee.

(c) When the appointing power, after considering the conclusions of the medical examination and other pertinent information, concludes that the employee is unable to perform the work of his or her present position, but is able to perform the work of another position including one of less than full time, the appointing power may demote or transfer the employee to such a position.

Except as authorized by the Department of Personnel Administration under Section 19837, the employee demoted or transferred pursuant to this section shall receive the maximum of the salary range of the class to which he or she is demoted or transferred, provided that the salary is not greater than the salary he or she received at the time of his or her demotion or transfer.

(d) When the appointing power after considering the conclusions of the medical examination provided for by this section or medical reports from the employee's physician, and other pertinent information, concludes that the employee is unable to perform the work of his or her present position, or any other position in the agency, and the employee is not eligible or waives the right to retire for disability and elects to withdraw his or her retirement contributions or to permit his or her contributions to remain in the retirement fund with rights to service retirement, the appointing power may terminate the appointment of the employee.

(e) The appointing power may demote, transfer, or terminate an employee under this section without requiring the employee to submit to a medical examination, when the appointing power relies upon a written statement submitted to the appointing power by the employee as to the employee's condition or upon medical reports submitted to the appointing power by the employee.

(f) The employee shall be given written notice of any demotion, transfer, or termination under this section at least 15 days prior to the effective date thereof. No later than 15 days after service of the notice, the employee may appeal the action of the appointing power to the board. The board, in accordance with its rules, shall hold a hearing. The board may sustain, disapprove, or modify the demotion, transfer, or termination.

(g) Whenever the board revokes or modifies a demotion, transfer, or termination, the board shall direct the payment of salary to the employee calculated on the same basis and using the same standards as provided in Section 19584.

(h) Upon the request of an appointing authority or the petition of the employee who was terminated, demoted, or transferred in accordance with this section, the employee shall be reinstated to an appropriate vacant position in the same class, in a comparable class or in a lower related class if it is determined by the board that the employee is no longer incapacitated for duty. Such a reinstatement to a position in a different agency may be made only with the concurrence of that agency. In approving or ordering the reinstatements, the board may require the satisfactory completion of a new probationary period. When the board finds the employee who was terminated, demoted, or transferred is no longer incapacitated for duty but there is no vacant position to which the employee appropriately can be appointed, the name of the employee shall be placed upon such reemployment lists as are determined to be appropriate by the board.

SEC. 26. The heading of Article 4.5 (commencing with Section 19400) of Chapter 7 of Part 2 of Division 5 of Title 2 of the Government Code is amended and renumbered to read:

Article 2. Upward Mobility

SEC. 27. The heading of Chapter 8 (commencing with Section 19570) of Part 2 of Division 5 of Title 2 of the Government Code is amended and renumbered to read:

CHAPTER 7. SEPARATIONS FROM SERVICE

SEC. 28. Section 19570 of the Government Code is amended to read:

19570. As used in this article "adverse action" means dismissal, demotion, suspension, or other disciplinary action. This article shall not apply to any adverse action affecting managerial employees subject to Article 2 (commencing with Section 19590), except as provided in Sections 19590.5, 19592, and 19592.2.

SEC. 29. The heading of Article 4 (commencing with Section 19590) of Chapter 8 of Part 2 of Division 5 of Title 2 of the Government Code is amended and renumbered to read:

Article 2. Tenure of Managerial Employees

SEC. 30. Section 19590 of the Government Code is amended to read:

19590. Notwithstanding Article 1 (commencing with Section 19570), persons who have been designated as managerial employees under Section 3513 from the beginning of their current appointment, but whose positions are not in the career executive category, shall hold their appointments subject to the following adverse action process:

(a) The employee may be demoted, dismissed, or otherwise disciplined under this section for any of the causes specified in Section 19572, but shall not be disciplined for any cause constituting prohibited discrimination as set forth in Sections 19700 to 19703, inclusive.

(b) At least 20 days prior to the effective date of the disciplinary action, the appointing power shall give the employee written notice of the proposed action setting forth the reasons for the action, the effective date of the action, the right of the employee to answer the notice orally or in writing within 10 days of receipt of notice, and the employee's appeal rights. Within 15 days after the effective date of the disciplinary action, a copy thereof shall be filed with the board.

(c) The board, at the written request of a disciplined managerial employee filed within 30 days of the employee's receipt of the notice of the disciplinary action, may investigate with or without a hearing the reasons for the action.

If the adverse action taken against the employee was a disciplinary action other than demotion or dismissal, the board shall, after the investigation or hearing, affirm, reduce, or overturn the action of the appointing power.

If the adverse action taken against the employee was a demotion or dismissal from state civil service, the board shall, after the investigation or hearing and subject to Section 19592.5, affirm or reduce the action, restore the employee to the position from which he or she was demoted, or reinstate the employee to the position from which he or she was dismissed or to a position to which he or she could have transferred.

The decision of the board to modify the action of the appointing power pursuant to this subdivision shall be taken only if the board determines, after investigation or hearing, that there is no substantial evidence to support the reason or reasons for disciplinary action, or that the disciplinary action was made in fraud or bad faith. In any such proceeding, the disciplined managerial employee shall have the burden of proof. Subject to rebuttal by the employee, it shall be presumed that the action was free from fraud and bad faith and that the statement of reasons in the notice of disciplinary action is true.

SEC. 31. Section 19590.5 of the Government Code is amended to read:

19590.5. Notwithstanding Section 19590, a managerial employee who, without a subsequent break in service due to a permanent separation, has previously served with permanent status in a nonmanagerial state civil service position, may be dismissed from state service only as provided in Article 1 (commencing with Section 19570). Similarly, a managerial employee who has served in a state civil service managerial position for a combined period of at least 12 months, may be dismissed from state service only as provided in Article 1 (commencing with Section 19570). Section 19590 shall apply, however, to a dismissal action against a managerial employee who does not have previous permanent status as described in this section, if the dismissal action is taken during the first year of his or her service in a state civil service managerial position or positions.

SEC. 32. The heading of Chapter 8.5 (commencing with Section 19600) of Part 2 of Division 5 of Title 2 of the Government Code is amended and renumbered to read:

CHAPTER 8. DEMONSTRATION PROJECTS

SEC. 33. The heading of Chapter 8.7 (commencing with Section 19610) of Part 2 of Division 5 of Title 2 of the Government Code is amended and renumbered to read:

CHAPTER 8.5. SHARED SAVINGS PROGRAM

SEC. 34. Section 19702.2 of the Government Code is amended to read:

19702.2. Educational prerequisites or testing or evaluation methods which are not job-related shall not be employed as part of hiring practices or promotional practices conducted pursuant to this part unless there is no adverse effect.

Nothing in this section shall be interpreted to limit the authority of the State Personnel Board regarding the state merit selection and examining program under Article VII of the California Constitution and this division.

SEC. 35. The heading of Article 4 (commencing with Section 19760) of Chapter 10 of Division 5 of Title 2 of the Government Code is amended and renumbered to read:

Article 3. Unlawful Employment

CHAPTER 795

An act to amend Sections 33595, 56100, 56150, 56155.5, 56157, 56220, 56325, 56343.5, 56362, 56727, and 56828 of, to amend and renumber Sections 56780, 56781, and 56782 of, to add Sections 56427 and 56780 to, to add Chapter 4.3 (commencing with Section 56400) to Part 30 of, to add and repeal Section 62006.7 of, and to repeal Sections 56455, 56476, 56607, 56607.5, 56608, 56609, 56760.5, and 56861 of, the Education Code, relating to individuals with exceptional needs.

[Approved by Governor September 19, 1985 Filed with Secretary of State September 19, 1985]

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

SECTION 1. Section 33595 of the Education Code is amended to read:

33595. (a) The commission shall study and provide assistance and advice to the State Board of Education, the Superintendent of Public Instruction, the Legislature, and the Governor in new or continuing areas of research, program development, and evaluation in special education.

(b) The commission shall report to the State Board of Education, the Superintendent of Public Instruction, the Legislature, and the Governor not less than once a year on the following:

(1) Activities necessary to be undertaken regarding special education for individuals with exceptional needs which are enumerated in Section 56100.

(2) The priorities and procedures utilized in the distribution of federal and state funds.

(3) The unmet educational needs of individuals with exceptional needs within the state.

(4) Recommendations relating to providing better educational services to individuals with exceptional needs including, but not limited to, the development, review, and revision of the definition of "appropriate," as that term is used in the phrase "free appropriate public education," as used in Public Law 94-142.

(c) Commission recommendations or requests shall be transmitted by letter from the commission chairperson to the president of the State Board of Education. Each communication shall be placed on the agenda of the next forthcoming state board meeting in accordance with the announced annual state board agenda cutoff dates. Following the state board meeting, the commission shall be notified by the state board as to what action has been taken on each recommendation or request. Commission recommendations or requests shall also be transmitted by letter from the commission chairperson to the Superintendent of Public Instruction, the Governor, and to appropriate Members of the Legislature.

SEC. 2. Section 56100 of the Education Code is amended to read:

56100. The State Board of Education shall do all the following:

(a) Adopt rules and regulations necessary for the efficient administration of this part.

(b) Adopt criteria and procedures for the review and approval by the board of local plans. Local plans may be approved for up to three years.

(c) Adopt size and scope standards for use by districts, special education service regions, and county offices, pursuant to subdivision (a) of Section 56170.

(d) Provide review, upon petition, to any district, special education services region, or county office that appeals a decision made by the department which affects its providing services under this part except a decision made pursuant to Chapter 5 (commencing with Section 56500).

(e) Review and approve a program evaluation plan for special education programs provided by this part in accordance with Chapter 6 (commencing with Section 56600).

(f) Recommend to the Commission on Teacher Credentialing the adoption of standards for the certification of professional personnel for special education programs conducted pursuant to this part.

(g) Adopt regulations to provide specific procedural criteria and guidelines for the identification of pupils as individuals with exceptional needs.

(h) Adopt guidelines of reasonable pupil progress and achievement for individuals with exceptional needs. The guidelines shall be developed to aid teachers and parents in assessing an individual pupil's education program and the appropriateness of the special education services.

(i) In accordance with the requirements of federal law, adopt regulations for all educational programs for individuals with exceptional needs, including programs administered by other state or local agencies.

(j) Adopt uniform rules and regulations relating to parental due process rights in the area of special education.

(k) Perform the duties prescribed by Chapter 4.5 (commencing with Section 56450).

SEC. 3. Section 56150 of the Education Code is amended to read:

56150. Special education programs authorized by this part shall be provided, pursuant to Section 48645.2, for individuals with exceptional needs who have been adjudicated by the juvenile court for placement in a juvenile hall or juvenile home, day center, ranch or camp, or for individuals with exceptional needs placed in a county community school pursuant to Section 1981.

SEC. 4. Section 56155.5 of the Education Code is amended to read:

56155.5. (a) As used in this article, "licensed children's institution" means a residential facility which is licensed by the state, or other public agency which has delegated authority by contract with the state to license, to provide nonmedical care to children, including, but not limited to, individuals with exceptional needs. "Licensed children's institution" in addition, includes a group home as defined by subdivision (a) of Section 80001 of Title 22 of the California Administrative Code.

(b) As used in this article, "foster family home" means a family residence which is licensed by the state, or other public agency which has delegated authority by contract with the state to license, to provide 24-hour nonmedical care and supervision for not more than six foster children, including, but not limited to, individuals with exceptional needs. "Foster family home," in addition, includes a small family home as defined in paragraph (6) of subdivision (a) of Section 1502 of the Health and Safety Code.

SEC. 5. Section 56157 of the Education Code is amended to read:

56157. (a) In providing appropriate programs to individuals with exceptional needs residing in licensed children's institutions or foster family homes, the district, special education services region, or county office shall first consider services in programs operated by public education agencies for individuals with exceptional needs. If such programs are not appropriate, special education and related services shall be provided by contract with a nonpublic, nonsectarian school.

(b) If special education and related services are provided by contract with a nonpublic, nonsectarian school, or with a licensed children's institution under this article, the terms of such contract shall be developed in accordance with the provisions of Section 56366.

SEC. 6. Section 56220 of the Education Code is amended to read:

56220. In addition to the provisions required to be included in the local plan pursuant to Section 56200, each special education services region that submits a local plan pursuant to subdivision (b) of Section 56170 and each county office that submits a local plan pursuant to subdivision (c) of Section 56170 shall develop written agreements to be entered into by entities participating in the plan. The agreements need not be submitted to the superintendent. These agreements shall include, but not be limited to, the following:

(a) A coordinated identification, referral, and placement system pursuant to Chapter 4 (commencing with Section 56300).

(b) Procedural safeguards pursuant to Chapter 5 (commencing with Section 56500).

(c) Regionalized services to local programs, including, but not limited to, all the following:

(1) Program specialist service pursuant to Section 56368.

(2) Personnel development, including training for staff, parents, and members of the community advisory committee pursuant to Article 3 (commencing with Section 56240).

(3) Evaluation pursuant to Chapter 6 (commencing with Section 56600).

(4) Data collection and development of management information systems.

(5) Curriculum development.

(6) Provision for ongoing review of programs conducted, and procedures utilized, under the local plan, and a mechanism for correcting any identified problem.

(d) A description of the process for coordinating services with other local public agencies which are funded to serve individuals with exceptional needs.

(e) A description of the process for coordinating and providing services to individuals with exceptional needs placed in public hospitals, proprietary hospitals, and other residential medical facilities pursuant to Article 5.5 (commencing with Section 56167) of Chapter 2.

(f) A description of the process for coordinating and providing services to individuals with exceptional needs placed in licensed children's institutions and foster family homes pursuant to Article 5 (commencing with Section 56155) of Chapter 2.

(g) A description of the process for coordinating and providing services to individuals with exceptional needs placed in juvenile court schools or county community schools pursuant to Section 56150.

SEC. 7. Section 56325 of the Education Code is amended to read:

56325. (a) Whenever a pupil transfers into a school district from a school district not operating programs under the same local plan in which he or she was last enrolled in a special education program, the administrator of a local program under this part may place the pupil in a comparable program for a period not to exceed 30 days. This interim placement may be made without complying with subdivision (a) of Section 56321.

(b) Before the expiration of the 30-day period, the interim placement shall be reviewed by the individualized education program team and a final recommendation shall be made by the team in accordance with the requirements of this chapter. The team may utilize information, records, and reports from the school district or county program from which the pupil transferred.

SEC. 8. Section 56362 of the Education Code is amended to read:

56362. (a) The resource specialist program shall provide, but not be limited to, all of the following:

(1) Provision for a resource specialist or specialists who shall provide instruction and services for those pupils whose needs have been identified in an individualized education program developed by the individualized education program team and who are assigned to regular classroom teachers for a majority of a schoolday.

(2) Provision of information and assistance to individuals with exceptional needs and their parents.

(3) Provision of consultation, resource information, and material regarding individuals with exceptional needs to their parents and to regular staff members.

(4) Coordination of special education services with the regular school programs for each individual with exceptional needs enrolled in the resource specialist program.

(5) Monitoring of pupil progress on a regular basis, participation in the review and revision of individualized education programs, as appropriate, and referral of pupils who do not demonstrate appropriate progress to the individualized education program team.

(6) Emphasis at the secondary school level on academic achievement, career and vocational development, and preparation for adult life.

(b) The resource specialist program shall be under the direction of a resource specialist who is a credentialed special education teacher, or who has a clinical services credential with a special class authorization, who has had three or more years of teaching experience, including both regular and special education teaching experience, as defined by rules and regulations of the Commission on Teacher Credentialing and who has demonstrated the competencies for a resource specialist, as established by the Commission on Teacher Credentialing.

(c) Caseloads for resource specialists shall be stated in the local policies developed pursuant to Section 56221 and in accordance with regulations established by the board. No resource specialist shall have a caseload which exceeds 28 pupils.

(d) Resource specialists shall not simultaneously be assigned to serve as resource specialists and to teach regular classes.

(e) Resource specialists shall not enroll a pupil for a majority of a schoolday without prior approval by the superintendent.

(f) At least 80 percent of the resource specialists within a local plan shall be provided with an instructional aide.

SEC. 9. Section 56343.5 of the Education Code is amended to read:

56343.5. A meeting of an individualized education program team requested by a parent to review an individualized education program pursuant to subdivision (c) of Section 56343 shall be held within 30 days, not counting days in July and August, from the date of receipt of the parent's written request. If a parent makes an oral request, the school district shall notify the parent of the need for a written request and the procedure for filing a written request.

SEC. 10. Chapter 4.3 (commencing with Section 56400) is added

to Part 30 of the Education Code, to read:

CHAPTER 4.3. DEMONSTRATION PROGRAMS

56400. Any special education local plan area may submit an application to the State Department of Education to operate a demonstration program for individuals with exceptional needs. Demonstration programs shall demonstrate creative methods of improving instruction, motivation, and achievement of individuals with exceptional needs by bringing together available resources, including, but not limited to, local districts, special education local plan areas, county offices, the State Department of Education, public agencies and private agencies. The total financial requirement of the demonstration program may not exceed the state entitlement which would otherwise be available.

The State Department of Education shall develop criteria for demonstration programs. The criteria shall be reviewed by the Advisory Commission on Special Education and approved by the State Board of Education. The special education local plan area shall include the criteria in its demonstration program application.

The goal of demonstration programs is to enhance instructional programs for individuals with exceptional needs. The program shall be under the direction of a qualified special education teacher, and the application to the state shall be reviewed by the special education local plan area community advisory committee and the bargaining unit for the certificated employees of the school district or county office that will conduct the demonstration program, and approved by the local board prior to submission. The State Department of Education may approve the initial application for a two-year period, and may renew the approval only if the department's evaluation of the demonstration program shows that there is evidence that the objectives of the program, as stated in the application are being achieved.

SEC. 11. Section 56427 is added to the Education Code, to read:

56427. Not less than two million three hundred twenty-four thousand dollars ($2,324,000) of the federal discretionary funds appropriated to the State Department of Education under Public Law 94-142 in any fiscal year shall be expended for programs for handicapped infants, until the time the Legislature, pursuant to recommendation of the department, determines that the funds are no longer needed for that purpose.

The programs to be funded under this section need not be deemed eligible under Section 56425 or 56728.8.

SEC. 12. Section 56455 of the Education Code is repealed.

SEC. 13. Section 56476 of the Education Code is repealed.

SEC. 14. Section 56607 of the Education Code is repealed.

SEC. 15. Section 56607.5 of the Education Code is repealed.

SEC. 16. Section 56608 of the Education Code is repealed.

SEC. 17. Section 56609 of the Education Code is repealed.

SEC. 18. Section 56727 of the Education Code is amended to read:

56727. The county superintendent shall compute the sum of the amounts computed pursuant to Sections 56725 and 56726.

SEC. 19. Section 56760.5 of the Education Code is repealed.

SEC. 20. Section 56780 of the Education Code is amended and renumbered to read:

56781. (a) Commencing with the 1982–83 fiscal year and each fiscal year thereafter, the superintendent shall multiply the average of the unduplicated pupil counts for the fall and spring semesters of the then current fiscal year, not to exceed 10 percent of the enrollment in kindergarten and grades 1 to 12, inclusive, in the local plan, by forty-four dollars ($44), as adjusted pursuant to Section 56782.

(b) Funds received pursuant to this section shall be expended only for the following purposes:

(1) Program specialists.

(2) Regionalized services as defined pursuant to subdivision (c) of Section 56220.

(3) Instructional personnel services units in excess of those funded pursuant to Article 2 (commencing with Section 56710) of Chapter 7. Units funded pursuant to this section shall not be considered part of the base number of units funded or operated for any district, county office, or local plan area for the purposes of the growth tests specified in Section 56728.6.

SEC. 21. Section 56780 is added to the Education Code, to read:

56780. (a) Funds for regionalized services shall be apportioned to the administrative agency of special education local plan areas. As a condition of receiving funds for regionalized services, the administrative agency shall assure that all functions listed below are performed in accordance with the governance structure of the special education local plan area.

(1) Coordination of the special education local plan area.

(2) Coordinated system of identification and assessment.

(3) Coordinated system of procedural safeguards.

(4) Coordinated system of personnel development.

(5) Coordinated system of curriculum development.

(6) Coordinated system of internal program review.

(7) Coordinated system of data collection and management.

(8) Coordinated system of evaluation of the effectiveness of the local plan.

(9) Coordination of interagency agreements.

(10) Coordination of services to medical facilities.

(11) Coordination of services to licensed children's institutions and foster homes.

(12) Preparation of special education local plan area reports.

(13) Incidental expenses of the community advisory committee.

(14) Coordination of transportation.

(15) Coordination of career and vocational education.

(16) Assurance of full educational opportunity.

(b) Direct instructional support may be provided by program specialists in accordance with Section 56368.

SEC. 22. Section 56781 of the Education Code is amended and renumbered to read:

56782. For the 1981–82 fiscal year, and for each fiscal year thereafter, the superintendent shall apportion funds for regionalized services, other than program specialists, as enumerated in subdivision (c) of Section 56220 by multiplying the average of the total unduplicated counts for the fall and spring semesters of the then current fiscal year in the local plan, not to exceed 10 percent of the enrollment in kindergarten and grades 1 to 12, inclusive, in the local plan, by twenty-five dollars ($25).

SEC. 23. Section 56782 of the Education Code is amended and renumbered to read:

56783. For fiscal year 1983–84, the amounts per unduplicated pupil provided pursuant to Sections 56781 and 56782 shall be increased by 8 percent. Commencing with the 1984–85 fiscal year and in each fiscal year thereafter, the amounts per unduplicated pupil provided pursuant to Sections 56781 and 56782 shall be increased annually by the statewide average percentage inflation adjustment computed for revenue limits of school districts.

SEC. 24. Section 56828 of the Education Code is amended to read:

56828. (a) No educational programs already in operation in school districts pursuant to Part 30 (commencing with Section 56000) shall be transferred to the county superintendent of schools, or to other school districts, or from the county superintendent of schools to school districts, without the approval of the Superintendent of Public Instruction, if the transfer would result in an entitlement to increased state aid pursuant to this chapter.

(b) In the event the transfer is approved, the support services amounts and instructional personnel service units amounts for the transferring agencies and county superintendent of schools shall be computed using a weighted average. The Superintendent of Public Instruction shall determine the additional costs to the state, if any, caused by the transfer, and permanently reduce the districts' revenue limits, or the county superintendent's support services entitlement, or both the districts' revenue limits and the county superintendent's support services entitlement, by an amount equal to the additional cost.

SEC. 25. Section 56861 of the Education Code is repealed.

SEC. 26. Section 62006.7 is added to the Education Code, to read:

62006.7. (a) Notwithstanding subdivision (f) of Section 62006 and Section 62006.5, no temporary advisory committee on special education shall be established for the purposes of reviewing and reporting on special education as required by this chapter.

(b) In place of a temporary advisory committee on special education, the Legislature hereby designates the Advisory Commission on Special Education, established pursuant to Section 33590, to fulfill the requirements of subdivision (f) of Section 62006.

(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 chaptered before January 1, 1987, deletes or extends that date.

SEC. 27. No reimbursement shall be made from the State Mandates Claims Fund pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code for costs mandated by the state pursuant to this act. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Part 7 (commencing with Section 17500) and any other provisions of law.

CHAPTER 796

An act to amend Sections 66451.11, 66451.15, 66451.19, and 66451.30 of, and to add Sections 66451.301 and 66451.302 to, the Government Code, relating to real property, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 19, 1985. Filed with Secretary of State September 19, 1985.]

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

SECTION 1. Section 66451.11 of the Government Code is amended to read:

66451.11. A local agency may, by ordinance which conforms to and implements the procedures prescribed by this article, provide for the merger of a parcel or unit with a contiguous parcel or unit held by the same owner if any one of the contiguous parcels or units held by the same owner does not conform to standards for minimum parcel size, under the zoning ordinance of the local agency applicable to the parcels or units of land and if all of the following requirements are satisfied:

(a) At least one of the affected parcels is undeveloped by any structure for which a building permit was issued or for which a building permit was not required at the time of construction, or is developed only with an accessory structure or accessory structures, or is developed with a single structure, other than an accessory structure, that is also partially sited on a contiguous parcel or unit.

(b) With respect to any affected parcel, one or more of the following conditions exists:

(1) Comprises less than 5,000 square feet in area at the time of the determination of merger.

(2) Was not created in compliance with applicable laws and ordinances in effect at the time of its creation.

(3) Does not meet current standards for sewage disposal and domestic water supply.

(4) Does not meet slope stability standards.

(5) Has no legal access which is adequate for vehicular and safety equipment access and maneuverability.

(6) Its development would create health or safety hazards.

(7) Is inconsistent with the applicable general plan and any applicable specific plan, other than minimum lot size or density standards.

The ordinance may establish the standards specified in paragraphs (3) to (7), inclusive, which shall be applicable to parcels to be merged.

For purposes of determining whether contiguous parcels are held by the same owner, ownership shall be determined as of the date that notice of intention to determine status is recorded.

This subdivision shall not apply if one of the following conditions exist:

(A) On or before July 1, 1981, one or more of the contiguous parcels or units of land is enforceably restricted open-space land pursuant to a contract, agreement, scenic restriction, or open-space easement, as defined and set forth in Section 421 of the Revenue and Taxation Code.

(B) On July 1, 1981, one or more of the contiguous parcels or units of land is timberland as defined in subdivision (f) of Section 51104, or is land devoted to an agricultural use as defined in subdivision (b) of Section 51201.

(C) On July 1, 1981, one or more of the contiguous parcels or units of land is located within 2,000 feet of the site on which an existing commercial mineral resource extraction use is being made, whether or not the extraction is being made pursuant to a use permit issued by the local agency.

(D) On July 1, 1981, one or more of the contiguous parcels or units of land is located within 2,000 feet of a future commercial mineral extraction site as shown on a plan for which a use permit or other permit authorizing commercial mineral resource extraction has been issued by the local agency.

(E) Within the coastal zone, as defined in Section 30103 of the Public Resources Code, one or more of the contiguous parcels or units of land has, prior to July 1, 1981, been identified or designated as being of insufficient size to support residential development and where the identification or designation has either (i) been included in the land use plan portion of a local coastal program prepared and adopted pursuant to the California Coastal Act of 1976 (Division 20 of the Public Resources Code), or (ii) prior to the adoption of a land use plan, been made by formal action of the California Coastal Commission pursuant to the provisions of the California Coastal Act of 1976 in a coastal development permit decision or in an approved land use plan work program or an approved issue identification on which the preparation of a land use plan pursuant to the provisions of the California Coastal Act is based.

For purposes of paragraphs (C) and (D) of this subdivision, "mineral resource extraction" means gas, oil, hydrocarbon, gravel, or

sand extraction, geothermal wells, or other similar commercial mining activity.

SEC. 2. Section 66451.15 of the Government Code is amended to read:

66451.15. Upon receiving a request for a hearing on determination of status from the owner of the affected property pursuant to Section 66451.14, the local agency shall fix a time, date, and place for a hearing to be conducted by the legislative body or an advisory agency, and shall notify the property owner of that time, date, and place for the hearing by certified mail. The hearing shall be conducted not more than 60 days following the local agency's receipt of the property owner's request for the hearing, but may be postponed or continued with the mutual consent of the local agency and the property owner.

SEC. 3. Section 66451.19 of the Government Code is amended to read:

66451.19. (a) Except as provided in Article 1.7 (commencing with Section 66451.30), a city or county shall no later than January 1, 1986, record a notice of merger for any parcel merged prior to January 1, 1984. After January 1, 1986, no parcel merged prior to January 1, 1984, shall be considered merged unless such notice of merger has been recorded prior to January 1, 1986.

(b) Notwithstanding the provisions of Sections 66451.12 to 66451.18, inclusive, a city or county having a merger ordinance in existence on January 1, 1984, may, until July 1, 1984, continue to effect the merger of parcels pursuant to that ordinance, unless the parcels would be deemed not to have merged pursuant to the criteria specified in Section 66451.30. The local agency shall record a notice of merger for any parcels merged pursuant to that ordinance.

(c) At least 30 days prior to recording a notice of merger pursuant to subdivision (a) or (b), the local agency shall advise the owner of the affected parcels, in writing, of the intention to record the notice and specify a time, date, and place at which the owner may present evidence to the legislative body or advisory agency as to why such notice should not be recorded.

(d) The failure of a local agency to comply with the requirements of this article for the merger of contiguous parcels or units of land held in common ownership shall render void and ineffective any resulting merger or recorded notice of merger and no further proceedings under the provisions of this division or a local ordinance enacted pursuant thereto shall be required for the purpose of sale, lease, or financing of such contiguous parcels or units, or any of them, until such time as the parcels or units of land have been lawfully merged by subsequent proceedings initiated by the local agency which meet the requirements of this article.

(e) The failure of a local agency to comply with the requirements of any prior law establishing requirements for the merger of contiguous parcels or units of land held in common ownership, shall render voidable any resulting merger or recorded notice of merger.

From and after the date the local agency determines that its actions did not comply with the prior law, or a court enters a judgment declaring that the actions of the agency did not comply with the prior law, no further proceedings under the provisions of this division or a local ordinance enacted pursuant thereto shall be required for the purpose of sale, lease, or financing of such contiguous parcels or units, or any of them, until such time as the parcels or units of land have been lawfully merged by subsequent proceedings initiated by the local agency which meet the requirements of this article.

SEC. 4. Section 66451.30 of the Government Code is amended to read:

66451.30. Any parcels or units of land for which a notice of merger had not been recorded on or before January 1, 1984, shall be deemed not to have merged if on January 1, 1984:

(a) The parcel meets each of the following criteria:

(1) Comprises at least 5,000 square feet in area.

(2) Was created in compliance with applicable laws and ordinances in effect at the time of its creation.

(3) Meets current standards for sewage disposal and domestic water supply.

(4) Meets slope density standards.

(5) Has legal access which is adequate for vehicular and safety equipment access and maneuverability.

(6) Development of the parcel would create no health or safety hazards.

(7) The parcel would be consistent with the applicable general plan and any applicable specific plan, other than minimum lot size or density standards.

(b) And, with respect to such parcel, none of the following conditions exist:

(1) On or before July 1, 1981, one or more of the contiguous parcels or units of land is enforceably restricted open-space land pursuant to a contract, agreement, scenic restriction, or open-space easement, as defined and set forth in Section 421 of the Revenue and Taxation Code.

(2) On July 1, 1981, one or more of the contiguous parcels or units of land is timberland as defined in subdivision (f) of Section 51104, or is land devoted to an agricultural use as defined in subdivision (b) of Section 51201.

(3) On July 1, 1981, one or more of the contiguous parcels or units of land is located within 2,000 feet of the site on which an existing commercial mineral resource extraction use is being made, whether or not the extraction is being made pursuant to a use permit issued by the local agency.

(4) On July 1, 1981, one or more of the contiguous parcels or units of land is located within 2,000 feet of a future commercial mineral extraction site as shown on a plan for which a use permit or other permit authorizing commercial mineral resource extraction has been issued by the local agency.

(5) Within the coastal zone, as defined in Section 30103 of the Public Resources Code, one or more of the contiguous parcels or units of land has, prior to July 1, 1981, been identified or designated as being of insufficient size to support residential development and where the identification or designation has either (A) been included in the land use plan portion of a local coastal program prepared and adopted pursuant to the California Coastal Act of 1976 (Division 20 of the Public Resources Code), or (B) prior to the adoption of a land use plan, been made by formal action of the California Coastal Commission pursuant to the provisions of the California Coastal Act of 1976 in a coastal development permit decision or in an approved land use plan work program or an approved issue identification on which the preparation of a land use plan pursuant to the provisions of the California Coastal Act is based.

For purposes of paragraphs (3) and (4), "mineral resource extraction" means gas, oil, hydrocarbon, gravel, or sand extraction, geothermal wells, or other similar commercial mining activity.

Each city or county, as applicable, may establish the standards specified in paragraphs (3) to (7), inclusive, of subdivision (a), which shall be applicable to parcels deemed not to have merged pursuant to this section.

SEC. 5. Section 66451.301 is added to the Government Code, immediately following Section 66451.30, to read:

66451.301. If any parcels or units of land merged under a valid local merger ordinance which was in effect prior to January 1, 1984, but for which a notice of merger had not been recorded before January 1, 1988, and one or more of the merged parcels or units of land is within one of the categories specified in paragraphs (1) to (5), inclusive, of subdivision (b) of Section 66451.30, the parcels or units of land shall be deemed not to have merged unless all of the following conditions exist:

(a) The parcels or units are contiguous and held by the same owner.

(b) One or more of the contiguous parcels or units do not conform to minimum parcel size under the applicable general plan, specific plan, or zoning ordinance.

(c) At least one of the affected parcels is undeveloped by any structure for which a building permit was issued or for which a building permit was not required at the time of construction, or is developed only with an accessory structure or accessory structures, or is developed with a single structure, other than an accessory structure, that is also partially sited on a contiguous parcel or unit.

(d) The parcels or units which do not conform to minimum parcel size were not created by a recorded parcel or final map.

If all the conditions described in subdivisions (a), (b), (c), and (d) above exist, only a parcel or unit of land which does not conform to minimum parcel size shall remain merged with a contiguous parcel.

SEC. 6. Section 66451.302 is added to the Government Code, immediately following Section 66451.301, to read:

66451.302. (a) By January 1, 1987, a city or county or city and county which has within its boundaries, parcels or units of land which are or may be subject to the provisions of Section 66451.301, shall send a notice to all owners of real property affected by Section 66451.301 in substantially the following form:

"The city or county sending you this notice has identified one or more parcels of land which you own as potentially subject to a new state law regarding the merger of substandard parcels which are located in one or more of the following categories:

(1) On or before July 1, 1981, one or more of the contiguous parcels or units of land is enforceably restricted open-space land pursuant to a contract, agreement, scenic restriction, or open-space easement, as defined and set forth in Section 421 of the Revenue and Taxation Code.

(2) On July 1, 1981, one or more of the contiguous parcels or units of land is timberland as defined in subdivision (f) of Section 51104, is in a timberland production zone as defined in subdivision (g) of Section 51104, or is land devoted to an agricultural use as defined in subdivision (b) of Section 51201.

(3) On July 1, 1981, one or more of the contiguous parcels or units of land is located within 2,000 feet of the site on which an existing commercial mineral resource extraction use is being made, whether or not the extraction is being made, whether or not the extraction is being made pursuant to a use permit issued by the local agency.

(4) On July 1, 1981, one or more of the contiguous parcels or units of land is located within 2,000 feet of a future commercial mineral extraction site as shown on a plan for which a use permit or other permit authorizing commercial mineral resource extraction has been issued by the local agency.

(5) [In coastal counties only] Within the coastal zone, as defined in Section 30103 of the Public Resources Code, one or more of the contiguous parcels or units of land has, prior to July 1, 1981, been identified or designated as being of insufficient size to support residential development and where the identification or designation has either (i) been included in the land use plan portion of a local coastal program prepared and adopted pursuant to the California Coastal Act of 1976 (Division 20 of the Public Resources Code), or (ii) prior to the adoption of a land use plan, been made by formal action of the California Coastal Commission pursuant to the provisions of the California Coastal Act of 1976 in a coastal development permit decision or in an approved land use plan work program or an approved issue identification on which the preparation of a land use plan pursuant to the provisions of the California Coastal Act is based."

"The new state law contained in Section 66451.301 of the Government Code, generally provides for parcels or units of land located in one or more of the above-described areas which were merged prior to January 1, 1984, and for which the local agency did not record a notice of merger by January 1, 1988, the parcels are

deemed unmerged on January 1, 1988, unless all of the following conditions exist:

(a) The parcels or units are contiguous and held by the same owner.

(b) One or more of the contiguous parcels or units do not conform to minimum parcel size under the applicable general plan, specific plan, or zoning ordinance.

(c) At least one of the affected parcels is undeveloped by any structure for which a building permit was issued or for which a building permit was not required at the time of construction, or is developed only with an accessory structure or necessary structures, or is developed with a single structure, other than an accessory structure, that is also partially sited on a contiguous parcel or unit.

(d) The parcels or units which do not conform to minimum parcel size were not created by a recorded parcel or final map.

In order to determine whether this new law applies to your property, you should immediately contact the _____ Department of (City or County) to assist you in determining the application of the new law."

"WARNING. Your failure to act may result in the loss of valuable legal rights regarding the property."

SEC. 7. No appropriation is made by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act does not mandate a new program or higher level of service on local government. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Part 7 (commencing with Section 17550) of Division 4 of Title 2 of the Government Code.

SEC. 8. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to afford a reasonable time for the orderly implementation of provisions enacted by Chapter 102 of the Statutes of 1984, regarding the merger of contiguous parcels of land, which local agencies are otherwise required to act upon by January 1, 1986, it is essential that this act take effect immediately.

CHAPTER 797

An act to amend Section 9250.9 of, and to add and repeal Section 9250.8 to, the Vehicle Code, relating to vehicle fees.

[Approved by Governor September 19, 1985 Filed with Secretary of State September 19, 1985]

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

SECTION 1. The Legislature hereby declares its intent that the California Highway Patrol maintain the uniformed positions mandated by Chapter 933 of the Statutes of 1981 to ensure that the uniformed field strength of the California Highway Patrol remains at a level that will provide the service and protection necessary for the motoring public.

SEC. 2. Section 9250.8 is added to the Vehicle Code, to read:

9250.8. (a) In addition to any other fees specified in this code and the Revenue and Taxation Code, a fee of one dollar ($1) shall be paid at the time of registration or renewal of registration of every vehicle subject to registration under this code beginning January 1, 1986, except those vehicles that are expressly exempted under this code from the payment of registration fees.

(b) This section shall remain in effect until January 1, 1991, and as of that date is repealed, unless a later enacted statute, which is chaptered on or before January 1, 1991, deletes or extends that date.

SEC. 3. Section 9250.9 of the Vehicle Code is amended to read:

9250.9. (a) All fees received by the department pursuant to Section 9250.8 shall be deposited in the Motor Vehicle Account in the State Transportation Fund. The money deposited in the account pursuant to this section shall be available, upon appropriation by the Legislature, for expenditure to offset the costs of maintaining the uniformed field strength of the Department of the California Highway Patrol.

(b) This section shall remain in effect until June 1, 1991, and as of that date is repealed, unless a later enacted statute which is chaptered on or before June 1, 1991, deletes or extends that date.

CHAPTER 798

An act to amend Section 10228.1 of, and to add Section 10228.3 to, the Elections Code, relating to elections.

[Approved by Governor September 19, 1985. Filed with Secretary of State September 19, 1985.]

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

SECTION 1. Section 10228.1 of the Elections Code is amended 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, the Democratic presidential primary portion of the ballot shall be printed immediately after the listing of all candidates seeking the nomination for elected federal and state office and prior to the listing of candidates for county central committee membership.

(d) 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

(e) (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. 2. Section 10228.3 is added to the Elections Code, to read:

10228.3. Subdivision (c) of Section 10228.1 of the Elections Code shall apply only if the names of delegate candidates to the Democratic National Convention appear on the ballot.

CHAPTER 799

An act to amend Section 406 of the Vehicle Code, relating to motorized bicycles.

[Approved by Governor September 19, 1985 Filed with Secretary of State September 19, 1985]

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

SECTION 1. Section 406 of the Vehicle Code is amended to read:

406. A "motorized bicycle" or "moped" is any two-wheeled or three-wheeled device having fully operative pedals for propulsion by human power, or having no pedals if powered solely by electrical energy, and an automatic transmission and a motor which produces less than 2 gross brake horsepower and is capable of propelling the device at a maximum speed of not more than 30 miles per hour on level ground.

SEC. 2. No reimbursement is required by this act pursuant to 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 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 800

An act to amend Section 3823 of, and to add Section 3824 to, the Public Resources Code, relating to geothermal revenues, and making an appropriation therefor.

[Approved by Governor September 19, 1985 Filed with Secretary of State September 19, 1985]

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

SECTION 1. Section 3823 of the Public Resources Code is amended to read:

3823. Revenues disbursed to counties of origin pursuant to Section 3821 and grants or loans made to local jurisdictions pursuant to Section 3822 shall be expended by the county or recipient for the following purposes:

(a) With respect to any local jurisdiction receiving a grant or loan pursuant to Section 3822, in which development of geothermal resources is contemplated, the revenues shall be expended for any of the following planning activities:

(1) Resource assessment and exploration technology.

(2) Local and regional planning and policy development and

implementation necessary for compliance with programs required by local, state, or federal laws and regulations.

(3) Identification of feasible measures that will mitigate the adverse impacts of the development of geothermal resources and the adoption of ordinances, regulations, and guidelines to implement those measures.

(4) Collecting baseline data and conducting environmental monitoring.

(5) Preparation or revision of geothermal resource elements, or geothermal components of energy elements, for inclusion in the local general plan, zoning and other ordinances, and related planning and environmental documents.

(b) With respect to any local jurisdiction receiving a grant or loan pursuant to Section 3822 in which geothermal resources are being developed or are in production, the revenues shall be expended for any of the following activities:

(1) Administrative costs incurred by the local jurisdiction that are attributable to the development or production of geothermal resources.

(2) Monitoring and inspecting geothermal facilities and related activities to assure compliance with applicable laws, regulations, and ordinances.

(3) Identifying, researching, and implementing feasible measures that will mitigate the adverse impacts of that development or production.

(4) Planning, constructing, providing, operating, and maintaining those public services and facilities that are necessitated by and result from the development or production.

(5) Undertaking projects demonstrating the technical and economic feasibility of geothermal direct heat and electrical generation applications.

(6) Undertaking projects for the enhancement, restoration, or preservation of natural resources, including, but not limited to, water development, water quality improvement, fisheries enhancement, and park and recreation facilities and areas.

SEC. 2. Section 3824 is added to the Public Resources Code, to read:

3824. Revenues disbursed to counties of origin pursuant to Section 3821 may be expended for the repair and maintenance of capital assets, including roads, bridges, aviation facilities, buildings, and parking areas.

CHAPTER 801

An act to repeal and add Section 498 of, and to repeal Sections 499 and 499a of, the Penal Code, relating to crimes.

[Approved by Governor September 19, 1985 Filed with Secretary of State September 19, 1985]

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

SECTION 1. Section 498 of the Penal Code is repealed.

SEC. 2. Section 498 is added to the Penal Code, to read:

498. (a) The following definitions govern the construction of this section:

(1) "Person" means any individual, or any partnership, firm, association, corporation, or other legal entity.

(2) "Utility" means any electrical, gas, or water corporation as those terms are defined in the Public Utilities Code, and electrical, gas, or water systems operated by any political subdivision.

(3) "Customer" means the person in whose name utility service is provided.

(4) "Utility service" means the provision of electricity, gas, water, or any other service provided by the utility for compensation.

(5) "Divert" means to change the intended course or path of electricity, gas, or water without the authorization or consent of the utility.

(6) "Tamper" means to rearrange, injure, alter, interfere with, or otherwise prevent from performing a normal or customary function.

(7) "Reconnection" means the reconnection of utility service by a customer or other person after service has been lawfully disconnected by the utility.

(b) Any person who, with intent to obtain for himself or herself utility services without paying the full lawful charge therefor, or with intent to enable another person to do so, or with intent to deprive any utility of any part of the full lawful charge for utility services it provides, commits, authorizes, solicits, aids, or abets any of the following shall be guilty of a misdemeanor:

(1) Diverts or causes to be diverted utility services, by any means whatsoever.

(2) Prevents any utility meter, or other device used in determining the charge for utility services, from accurately performing its measuring function by tampering or by any other means.

(3) Tampers with any property owned by or used by the utility to provide utility services.

(4) Makes or causes to be made any connection with or reconnection with property owned or used by the utility to provide utility services without the authorization or consent of the utility.

(5) Uses or receives the direct benefit of all or a portion of utility

services with knowledge or reason to believe that the diversion, tampering, or unauthorized connection existed at the time of that use, or that the use or receipt was otherwise without the authorization or consent of the utility.

(c) In any prosecution under this section, the presence of any of the following objects, circumstances, or conditions on premises controlled by the customer or by the person using or receiving the direct benefit of all or a portion of utility services obtained in violation of this section shall permit an inference that the customer or person intended to and did violate this section:

(1) Any instrument, apparatus, or device primarily designed to be used to obtain utility services without paying the full lawful charge therefor.

(2) Any meter that has been altered, tampered with, or bypassed so as to cause no measurement or inaccurate measurement of utility services.

(d) If the value of all utility services obtained in violation of this section totals more than four hundred dollars ($400) or if the defendant has previously been convicted of an offense under this section or any former section which would be 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, then the violation is punishable by imprisonment in the county jail for not more than one year, or in the state prison.

(e) This section shall not be construed to preclude the applicability of any other provision of the criminal law of this state.

SEC. 3. Section 499 of the Penal Code is repealed.

SEC. 4. Section 499a of the Penal Code is repealed.

SEC. 5. If any provision of this act or the application thereof to any person or circumstance is held invalid, that invalidity does 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. No reimbursement is required by this act pursuant to 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 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 802

An act to add Sections 39033 and 39034 to the Education Code, relating to school property, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 19, 1985 Filed with Secretary of State September 19, 1985.]

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

SECTION 1. Section 39033 is added to the Education Code, to read:

39033. Notwithstanding Article 4 (commencing with Section 39360) of Chapter 3 of this part, Article 8 (commencing with Section 54220) of Chapter 5 of Part 1 of Division 2 of Title 5 of the Government Code, or any other provision of law, any unimproved real property that was acquired by a school district pursuant to Section 35270.5, which property the governing board of the school district has deemed to be surplus property of the district, may not be sold to any person or entity within 20 years of its acquisition by the district unless the district has first made a bona fide offer to sell the property to the person or entity that owned the property at the time of its acquisition by the district or, if applicable, offered to that person or entity a right of first refusal of any bona fide offer acceptable to the district made by another to purchase the property.

SEC. 2. Section 39034 is added to the Education Code, to read:

39034. The failure to comply with any provision of this article shall not invalidate any sale or transfer of real property to a purchaser or encumbrancer for value.

SEC. 3. Reimbursement to local agencies and school districts for costs mandated by the state pursuant to this act shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code and, if the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), shall be made from the State Mandates Claims Fund.

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 that school district sales of surplus real property may give priority to persons or entities that owned the property prior to its condemnation by the district, beginning in the 1985–86 fiscal year, it is necessary that this act take effect immediately.

CHAPTER 803

An act to amend Sections 25600 and 25664 of the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor September 19, 1985. Filed with Secretary of State September 19, 1985.]

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

SECTION 1. Section 25600 of the Business and Professions Code is amended to read:

25600. No licensee shall, directly or indirectly, give any premium, gift, or free goods in connection with the sale or distribution of any alcoholic beverage except as provided by rules which shall be adopted by the department to implement this section or except as authorized by this division.

No rule of the department may permit a licensee to give any premium, gift, or free goods of greater than inconsequential value in connection with the sale or distribution of beer.

SEC. 2. Section 25664 of the Business and Professions Code is amended to read:

25664. The use in any advertisement of alcoholic beverages of any subject matter, language, or slogan addressed to and intended to encourage minors to drink the alcoholic beverages is prohibited. Nothing in this section shall be deemed to restrict or prohibit any advertisement of alcoholic beverages to those persons of legal drinking age.

The department may adopt rules as it determines to be necessary for the administration of this section.

SEC. 3. No reimbursement is required by this act pursuant to 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 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. Section 2 of this act shall become operative on July 1, 1986.

CHAPTER 804

An act to add Section 31625.3 to the Government Code, relating to the County Employees Retirement Law of 1937.

[Approved by Governor September 19, 1985 Filed with Secretary of State September 19, 1985]

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

SECTION 1. Section 31625.3 is added to the Government Code, to read:

31625.3. Notwithstanding any other provision of this chapter, contributions shall not be deducted from the salary of any member who was a member before or after March 7, 1973, of the retirement association, another county retirement system established under this chapter, or the Public Employees' Retirement System, and has total reciprocal service credit of not less than 30 years in the retirement association, or in the retirement association and another county retirement system established under this chapter, or the Public Employees' Retirement System, or a combination thereof.

This section shall apply only in a county of the fourth class, as established by Sections 28020 and 28025, as amended by Chapter 1204 of the Statutes of 1971, but shall not apply in such a county unless and until it is adopted by a majority vote of the board of supervisors.

SEC. 2. No reimbursement shall be made from the State Mandates Claims Fund pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code for costs mandated by the state pursuant to this act. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Part 7 (commencing with Section 17500) and any other provisions of law.

CHAPTER 805

An act to add Section 1262.5 to the Business and Professions Code, relating to health professionals.

[Approved by Governor September 19, 1985 Filed with Secretary of State September 19, 1985]

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

SECTION 1. Section 1262.5 is added to the Business and Professions Code, to read:

1262.5. Notwithstanding Section 135, an applicant for a clinical laboratory or limited technologist license who fails to pass the written examination two times shall not be eligible to be reexamined a third time until at least one year has elapsed from the date of the second examination. An applicant who fails the third examination shall not be eligible to take the examination a fourth time until two years have elapsed from the date of the third examination. Thereafter, the examination may not be taken more frequently than once in two years.

CHAPTER 806

An act to amend Section 5384 of, and to add Sections 5386 and 5414.5 to, the Public Utilities Code, relating to carriers, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 19, 1985 Filed with Secretary of State September 19, 1985]

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

SECTION 1. Section 5384 of the Public Utilities Code is amended to read:

5384. The commission shall issue permits to persons, who are otherwise qualified, whose passenger carrier operations fall into the following categories:

(a) Specialized carriers, who do not hold themselves out to serve the general public, but only provide service under contract with industrial and business firms, governmental agencies, and private schools or who only transport agricultural workers to and from farms for compensation or who only conduct transportation services, which are incidental to another business. The permits shall be limited to a 50-mile radius of operation from the home terminal.

(b) Carriers using only vehicles under 15-passenger seating capacity and under 25 feet in length.

(c) Carriers conducting round-trip sightseeing tour service.

SEC. 2. Section 5386 is added to the Public Utilities Code, to read:

5386. In every written or oral advertisement of the services it offers, every charter-party carrier of passengers shall state the number of its permit or identifying symbol, as specified by the commission.

SEC. 3. Section 5414.5 is added to the Public Utilities Code, to read:

5414.5. Every corporation or person who knowingly and willfully issues, publishes, or affixes, or causes or permits the issuance, publishing, or affixing, of any oral or written advertisement, broadcast, or other holding out to the public, or any portion thereof, that the corporation or person is in operation as a charter-party carrier of passengers without having a valid certificate or permit issued under this chapter is guilty of a misdemeanor punishable, if an individual, 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, or, if a corporation, by a fine of not more than five thousand dollars ($5,000).

SEC. 4. No reimbursement is required by this act pursuant to 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 incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty

for a crime or infraction, or eliminates a crime or infraction.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to correct the situation resulting from the inadvertent omission of provisions directing the Public Utilities Commission to issue charter-party carrier permits to operators of sightseeing tour services enacted in 1984 and to clarify the law on this point as soon as possible, and to institute requirements that these carriers include their permit or identifying symbol number in their advertising as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 807

An act to amend Sections 25523 and 25524 of the Public Resources Code, relating to energy resources.

[Approved by Governor September 19, 1985 Filed with Secretary of State September 19, 1985.]

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

SECTION 1. Section 25523 of the Public Resources Code is amended to read:

25523. The commission shall prepare a written decision after the public hearing on an application, which includes all of the following:

(a) Specific provisions relating to the manner in which the proposed facility is to be designed, sited, and operated in order to protect environmental quality and assure public health and safety.

(b) In the case of a site to be located in the coastal zone, specific provisions to meet the objectives of Division 20 (commencing with Section 30000) as may be specified in the report submitted by the California Coastal Commission pursuant to subdivision (d) of Section 30413, unless the commission specifically finds that the adoption of the provisions specified in the report would result in greater adverse effect on the environment or that the provisions proposed in the report would not be feasible.

(c) In the case of a site to be located in the Suisun Marsh or in the jurisdiction of the San Francisco Bay Conservation and Development Commission, specific provisions to meet the requirements of Division 19 (commencing with Section 29000) of this code or Title 7.2 (commencing with Section 66600) of the Government Code as may be specified in the report submitted by the San Francisco Bay Conservation and Development Commission pursuant to subdivision (d) of Section 66645 of the Government Code, unless the commission specifically finds that the adoption of the provisions specified in the report would result in greater adverse effect on the environment or

the provisions proposed in the report would not be feasible.

(d) Findings regarding the conformity of the proposed site and related facilities with standards adopted by the commission pursuant to Section 25216.3 and subdivision (d) of Section 25402, with public safety standards and the applicable air and water quality standards, and with other relevant local, regional, state, and federal standards, ordinances, or laws. If the commission finds that there is noncompliance with any state, local, or regional ordinance or regulation in the application, it shall consult and meet with the state, local, or regional governmental agency concerned to attempt to correct or eliminate the noncompliance. If the noncompliance cannot be corrected or eliminated, the commission shall inform the state, local, or regional governmental agency if it makes the findings required by Section 25525.

(e) Provision for restoring the site as necessary to protect the environment, if the commission denies approval of the application.

(f) Findings regarding the conformity of the proposed facility with the 12-year forecast of statewide and service area electric power demands adopted pursuant to subdivision (e) of Section 25305.

(g) In the case of a geothermal site and related facility, findings on whether there are sufficient commercial quantities of geothermal resources available to operate the proposed facility for its planned life.

SEC. 2. Section 25524 of the Public Resources Code is amended to read:

25524. (a) The commission shall not certify any facility contained in the application, unless its findings with respect to subdivision (f) of Section 25523 are in the affirmative.

(b) The commission shall not certify any geothermal site and related facility unless it finds that the geothermal field dedicated to the proposed powerplant is reasonably capable of providing geothermal resources in sufficient commercial quantities to supply the powerplant over its planned life.

CHAPTER 808

An act to amend Sections 5 and 9 of, and to add Section 6.1 to, the Santa Clara Valley Water District Act (Chapter 1405 of the Statutes of 1951), relating to the Santa Clara Valley Water District, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 19, 1985 Filed with Secretary of State September 19, 1985]

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

SECTION 1. Section 5 of the Santa Clara Valley Water District Act (Chapter 1405 of the Statutes of 1951) is amended to read:

Sec. 5. The district is hereby declared to be a body corporate and politic and as such shall have, in addition to the other powers vested in it by this act, the following powers:

1. To have perpetual succession.

2. To sue and be sued in the name of said district in all actions and proceedings in all courts and tribunals of competent jurisdiction.

3. To adopt a seal and alter it at pleasure.

4. To acquire by grant, purchase, lease, gift, devise, contract, construction, or otherwise, and to hold, use, enjoy, sell, let, and dispose of real and personal property of every kind, including lands, structures, buildings, rights-of-way, easements, and privileges, and to construct, maintain, alter and operate any and all works or improvements, within or without the district, necessary or proper to carry out any of the objects or purposes of this act and convenient to the full exercise of its powers, and to complete, extend, add to, alter, remove, repair or otherwise improve any works, or improvements, or property acquired by it as authorized by this act.

5. To store water in surface or underground reservoirs within or outside of the district for the common benefit of the district or of any zone or zones affected; to conserve and reclaim water for present and future use within the district; to appropriate and acquire water and water rights, and import water into the district and to conserve within or outside of the district, water for any purpose useful to the district; and 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 of water for irrigation, domestic, fire protection, municipal, commercial, industrial, and all other beneficial uses; to distribute, sell, or otherwise dispose of, outside the district, any waters not needed for beneficial uses within the district; to commence, maintain, intervene in, defend or compromise, in the name of the district in behalf of the landowners therein, 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 land situated therein, or involving the wasteful use of water therein; to commence, maintain, intervene in, defend and compromise and to assume the cost and expenses of any and all actions and proceedings now or hereafter begun; to prevent interference with or diminution of, or to declare rights in the natural flow of any stream or surface or subterranean supply of water used or useful for any purpose of the district or of common benefit to the lands within the district or to its inhabitants; to prevent unlawful exportation of water from said district; to prevent contamination, pollution or otherwise rendering unfit for beneficial use the surface or subsurface water used or useful in said district, and to commence,

maintain and defend actions and proceedings to prevent any such interference with the aforesaid waters as may endanger or damage the inhabitants, lands, or use of water in, or flowing into, the district; provided, however, that said district shall not have power to intervene or take part in, or to pay the costs or expenses of, actions or controversies between the owners of lands or water rights which do not affect the interests of the district.

6. To control the flood and storm waters of said district and the flood and storm waters of streams that have their sources outside of said district, but which streams and the floodwaters thereof, flow into said district, and to conserve such waters for beneficial and useful purposes of said district by spreading, storing, retaining and causing to percolate into the soil within or without said district, or to save or conserve in any manner all or any of such waters and protect from damage from such flood or storm waters the watercourses, watersheds, public highways, life and property in said district, and the watercourses outside of the district of streams flowing into the district.

7. 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 in the name of the state, 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 cooperate with, act in conjunction with, enter into and to do any acts necessary for the proper performance of any agreement 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 state, city and county, city, county, district of any kind, public or private corporation, association, firm or individual, or any number of them, for the ownership, joint acquisition, leasing, disposition, use, management, construction, installation, extension, maintenance, repair, or operation of any rights, works, or other property of a kind which might lawfully be acquired or owned by the district or for the lawful performance of

any power or purpose of said district provided for in this act including, but not limited to, the granting of the right to the use of any water or the right to store such water in any reservoir of the district or to carrying such water through any tunnel, canal, ditch or conduit of the district or for the delivery, sale, or exchange of any water right, water supply or water pumped, stored, appropriated or otherwise acquired or secured for the use of said district, or for controlling drainage waters, or flood or storm waters of streams in or running into said district, or for the protection of life or property therein, or for the purpose of conserving any waters for the beneficial use within said district, or in any other works, uses, or purposes provided for in this act; and to adopt and carry out any definite plan or system for accomplishing, facilitating and/or financing all work which may lawfully be accomplished by the district and to enforce said plan or system by resolution or ordinance.

8. To carry on technical and other necessary investigations, make measurements, collect data, make analyses, studies, and inspections pertaining to water supply, water rights, control of flood and storm waters, and use of water both within and without said district relating to watercourses or streams flowing in or into said district. For such purposes, the district shall have the right of access through its authorized representatives to all properties within the district and elsewhere relating to watercourses and streams flowing in or into said district. The district, through its authorized representatives, may enter upon such lands and make examinations, surveys, and maps thereof.

9. To prescribe, revise and collect fees and charges for facilities furnished or to be furnished to any new building, improvement or structure by the use of any flood control or storm drainage system constructed or to be constructed in a zone of the district, and whenever a drainage or flood control problem is referred to the district by the County of Santa Clara, or any incorporated city therein, to require the installation of drainage or flood control improvements necessary and/or convenient for needs of the zone, including but not limited to, residential, subdivision, commercial and industrial drainage and flood control needs, said county and cities being hereby authorized to refer all drainage and flood control problems, arising under the Subdivision Map Act or otherwise, to the district for solution. Revenues derived under this section shall be used for the acquisition, construction, reconstruction, maintenance and operation of the flood control or storm drainage facilities of the said zone, to reduce the principal or interest of any bonded indebtedness thereof, or to replace funds expended on behalf of said zone derived from the fund created under authority of Section 13, subdivision 1.

10. To incur indebtedness, and to issue bonds in the manner herein provided.

11. To cause taxes or assessments to be levied and collected for the purpose of paying any obligation of the district, and to carry out

any of the purposes of this act, in the manner hereinafter provided.

12. To make contracts, and to employ labor, and to do all acts necessary for the full exercise of all powers vested in said district or any of the officers thereof, by this act.

13. To have the power and right to disseminate information concerning the rights, properties, activities, plans and proposals of the district; provided, however, that expenditures during any fiscal year for such purposes shall not exceed one-half cent ($0.005) for each one hundred dollars ($100) of assessed valuation of such district.

14. To pay to any city, public agency, district, or educational institution recognized under Division 21 (commencing with Section 29001) of the Education Code, a portion of the cost of water imported by such city, public agency, district, or educational institution into, for use within, and of benefit to the Santa Clara Valley Water District.

15. To establish designated floodways in accordance with the provisions of the Cobey-Alquist Flood Plain Management Act (Chapter 4 (commencing with Section 8400), Part 2, Division 5 of the Water Code).

16. To acquire, construct, maintain, operate and install landscaping or recreational facilities in connection with any dam, reservoir, or other works owned or controlled by the district.

17. To acquire, construct, maintain, operate and install, lease, and control facilities for the generation, transmission, distribution, sale, exchange, and lease of electric power.

18. To require the sealing of abandoned or unused wells according to standards adopted by the board by ordinance and designed to protect the groundwater resources of the district from contamination. Upon and following the effective date of the ordinance, the County of Santa Clara or any incorporated city therein shall require all persons applying for any land development permit or approval to show the existence and location of any water well upon a map of the property the subject of the application. When a well is shown, the map shall be referred to the district immediately upon receipt for review and investigation. If upon review and investigation the district determines that the well or wells are to be sealed by the applicant pursuant to the ordinance, the determination shall be transmitted promptly to the applicant by the district as a requirement in writing.

SEC. 2. Section 6.1 is added to the Santa Clara Valley Water District Act (Chapter 1405 of the Statutes of 1951), to read:

Sec. 6.1. Any abandoned or unused water well endangering the public health and safety by creating a water contamination hazard is a public nuisance. The board shall, by ordinance, establish standards for what constitutes a water contamination hazard.

Whenever the district determines that a public nuisance, as so defined, exists, it shall, by certified mail, notify the then current record owner of the property to abate the public nuisance and that it is the intention of the district to record a notice of violation of the

ordinance. The notice to the owner shall describe the violation and specify a time, date, and place for a hearing, at which the owner may present evidence to the board that a public nuisance does not actually exist and that the notice should not be recorded. The notice to the owner shall state that, unless the public nuisance is abated within the time specified by the board following the hearing, the district may abate the public nuisance and the costs of the abatement will be assessed against the property. The meeting shall take place no sooner than 30 days and no later than 60 days from date of mailing. If, within 15 days of receipt of the notice, the owner of the real property fails to inform the district of his or her objection to recording the notice of violation, the board shall record the notice of violation with the county recorder. If, after the owner has presented evidence, it is determined that there has been no violation, the district shall mail a clearance letter to the then current owner of record. If, however, after the owner has presented evidence, the board determines that a violation has in fact occurred, the board shall record the notice of violation with the county recorder. The notice of violation, when recorded, shall be deemed to be constructive notice of the violation to all successors in interest in the property. The county recorder shall index the names of the fee owners in the general index.

If the board determines, at the conclusion of the hearing, that a public nuisance actually exists, the board shall order the property owner to abate the public nuisance within a specified time.

If the public nuisance is not abated within the time specified in the order of the board following a hearing, the district may abate the public nuisance. Any entry upon private property by the district for this purpose shall be preceded by written notice to the owner by certified mail stating the date and place of entry, the purpose thereof, and the number of persons entering. If the mailed notice is returned undelivered, the district may post a copy thereof at the proposed entry point five days prior to entry.

Any costs incurred by the district in abating a public nuisance pursuant to this section are a lien upon the property upon which the public nuisance existed when notice of the lien is filed and recorded.

Notice of the lien, particularly identifying the property on which the nuisance was abated and the amount of the lien, and naming the owner of record of the property, shall be recorded by the district in the office of the Santa Clara County Recorder within one year after the first item of expenditures by the district or within 90 days after the completion of the work, whichever first occurs. Upon recordation of the notice of lien, the lien shall have the same force, effect, and priority as a judgment lien, except that it shall attach only to the property described in the notice, and shall continue for 10 years from the time of recording of the notice unless sooner released or otherwise discharged.

SEC. 3. Section 9 of the Santa Clara Valley Water District Act (Chapter 1405 of the Statutes of 1951), is amended to read:

Sec. 9. The board shall have power to adopt resolutions for the district which shall be adopted, certified to, recorded, and published, in the same manner except as herein otherwise provided for, as are resolutions for the County of Santa Clara.

The board shall have the power to adopt ordinances for the district. All ordinances shall be enacted only by rollcall vote entered into the proceedings of the board. An ordinance shall be in full force and effect 30 days after adoption, and shall be published once in full in a newspaper of general circulation, printed, published, and circulated in the district within 10 days after adoption. It is a misdemeanor for any person to violate any district ordinance adopted pursuant to this section from and after the effective date of the ordinance. The violation shall be punishable by a fine not exceeding five hundred dollars ($500), or imprisonment in the county jail not to exceed 30 days, or both that fine and that imprisonment. Any violation or threatened violation may also be enjoined by civil action. The board shall have power to make and enforce all needful rules, regulations, standards, and procedures for the administration and government of the district, and to appoint and employ all needful agents, superintendents, engineers, attorneys, and employees to properly look after the performance of any work provided for in this act and to operate and maintain those works, and to perform all other acts necessary or proper to accomplish the purposes of this act.

In addition to the officers and employees herein otherwise prescribed, the board may in its discretion appoint a chairman, a clerk and such other officers and employees for the board or district as in its judgment may be deemed necessary, prescribe their duties and fix their compensation. Those officers and employees shall be employed, suspended, or their employment terminated in accordance with an ordinance setting forth rules, regulations, standards and procedures for appointment, suspension and termination of employment.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act is in accordance with the request of a local agency or agencies which desire legislative authority to carry out the program specified in this act, and because the local agency or agencies have the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, and because the only other costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

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 groundwater basins underlying the Santa Clara Valley Water District are threatened with contamination. Contaminants present in upper aquifers may be transmitted to lower aquifers, which constitute a principal source of drinking water, by movement through unused or abandoned wells. In order that the work of finding and sealing those wells may be undertaken at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 809

An act to amend Sections 5090.24 and 5090.33 of, and to add Section 5090.56 to, the Public Resources Code, relating to parks and recreation.

[Approved by Governor September 19, 1985. Filed with Secretary of State September 19, 1985]

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

SECTION 1. Section 5090.24 of the Public Resources Code is amended to read:

5090.24. The commission has the following particular duties and responsibilities:

(a) Be fully informed regarding all governmental activities affecting the program.

(b) Meet from time to time at various locations throughout the state to receive comments on the implementation of the program.

(c) Consider, upon the request of any owner or tenant, whose property is in the vicinity of any land in the system, any alleged adverse impacts occurring on that person's property from the operation of off-highway motor vehicles and recommend to the division suitable measures for the prevention of any adverse impact determined by the commission to be occurring.

(d) Review and comment annually to the director on the proposed budget of expenditures from the fund.

(e) Review and approve all capital outlay expenditures from the fund proposed for inclusion in the budget.

(f) Review and make recommendations, after conducting at least one public hearing, to the director on the development of a model off-highway motor vehicle recreation safety program and eligibility criteria and procedures for a safety education local assistance grant program.

(g) Report annually to the Legislature, the Governor, appropriate agencies of government, off-highway motor vehicle users and user groups, and the general public regarding the status of the program and the status of off-highway motor vehicle recreation generally.

SEC. 2. Section 5090.33 of the Public Resources Code is amended to read:

5090.33. The division has the following particular duties and responsibilities:

(a) The implementation of the policies established by the commission.

(b) Provision of staff assistance to the commission.

(c) Preparation of plans for lands in, or proposed to be included in, the system. However, no plan shall be prepared in any instance specified in subdivision (c) of Section 5002.2.

(d) The conduct of surveys and the preparation of studies that are necessary or desirable for furthering the program.

(e) The recruitment and utilization of volunteers to further the program.

(f) The preparation and coordination of safety education programs through grants, cooperative agreements, and contracts.

SEC. 3. Section 5090.56 is added to the Public Resources Code, to read:

5090.56. (a) Notwithstanding Sections 5090.50 and 5090.55, grants may be made to cities, counties, appropriate districts, and nonprofit corporations for safety education programs.

(b) Up to three hundred thousand dollars ($300,000) of the funds allocated each fiscal year shall be available for off-highway vehicle safety education program purposes, subject to appropriation in the annual Budget Act.

(c) In making grants or entering into cooperative agreements or contracts under this section, the department shall give priority to applications for safety programs which demonstrate the following:

(1) Cost-efficiency.

(2) The availability of private capital, and the potential for the project to become financially self-supporting for future safety programs.

(3) Instruction to the largest number of users.

(4) Geographical distribution.

(5) User-group involvement and support.

(6) Emphasis on junior operators and on a variety of vehicle types.

(d) Grants for safety programs shall require matching funds, or the equivalent value of services or materials, in an amount not less than 25 percent of the total expense of the program.

(e) No grant may be made or cooperative agreement or contract entered into under this section without the approval of the commission.

CHAPTER 810

An act to add Section 8329.5 to the Education Code, relating to child care and development programs.

[Approved by Governor September 19, 1985 Filed with Secretary of State September 19, 1985]

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

SECTION 1. The Legislature hereby recognizes the importance of community college child care programs in assisting students in obtaining equal educational opportunities by enabling these students to pursue their educational goals while also providing expert child care for their children. The Legislature further recognizes that community college child care programs also provide an important learning experience for students pursuing career goals in the field of child care and development.

It is the intent of the Legislature in enacting this act to ensure that funding for these child care programs shall be maintained in accordance with the requirements of existing law and will not be jeopardized by reductions in community college district apportionments which may affect these programs.

SEC. 2. Section 8329.5 is added to the Education Code, to read:

8329.5. Notwithstanding any other provision of law, the Chancellor of the California Community Colleges shall not include any portion of the countywide 1 percent general purpose local property tax revenue allocated by the Ventura Community College District to the Child Development Fund during the 1981–82, 1982–83, 1983–84, and 1984–85 fiscal years as local property tax revenue for general apportionment purposes pursuant to subdivision (c) of Section 4605 and subdivision (b) of Section 84700.

CHAPTER 811

An act to add Section 1596.876 to the Health and Safety Code, relating to minors.

[Approved by Governor September 19, 1985 Filed with Secretary of State September 19, 1985.]

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

SECTION 1. Section 1596.876 is added to the Health and Safety Code, to read:

1596.876. In any case in which a child day care facility releases a minor to a peace officer pursuant to Section 305 of the Welfare and Institutions Code, the official in charge of that facility shall provide the peace officer with the address and telephone number of the minor's parent or guardian in order to enable the peace officer to make the notification required by Section 308 of the Welfare and Institutions Code.

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. The Legislature declares that this act mandates a new program or higher level of service on local government. As required by Section 6 of Article XIII B of the California Constitution, reimbursement to local agencies and school districts for costs mandated by the state pursuant to this act shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code and, if the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), shall be made from the State Mandates Claims Fund.

CHAPTER 812

An act to add Section 1281 to, and to repeal Sections 1493 and 1494 of, the Health and Safety Code, and to repeal and add Section 13823.5 of, and to add Sections 13823.7, 13823.9, and 13823.11 to, the Penal Code, relating to sexual assaults.

[Approved by Governor September 19, 1985. Filed with Secretary of State September 19, 1985]

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

SECTION 1. Section 1281 is added to the Health and Safety Code, to read:

1281. All public and private general acute care hospitals either shall comply with the standards for the examination and treatment of victims of sexual assault and attempted sexual assault, including child molestation, and the collection and preservation of evidence therefrom, specified in Section 13823.11 of the Penal Code, and the protocol and guidelines therefor established pursuant to Section 13823.5 of the Penal Code, or they shall adopt a protocol for the immediate referral of these victims to a local hospital that so complies, and shall notify local law enforcement agencies, the district attorney, and local victim assistance agencies of the adoption of the referral protocol.

SEC. 2. Section 1493 of the Health and Safety Code is repealed.

SEC. 3. Section 1494 of the Health and Safety Code is repealed.

SEC. 4. Section 13823.5 of the Penal Code is repealed.

SEC. 5. Section 13823.5 is added to the Penal Code, to read:

13823.5. (a) The Office of Criminal Justice Planning, with the assistance of the advisory committee established pursuant to Section 13836, shall establish a protocol for the examination and treatment of victims of sexual assault and attempted sexual assault, including child molestation, and the collection and preservation of evidence therefrom. The protocol shall contain recommended methods for meeting the standards specified in Section 13823.11.

(b) In addition to the protocol, the office shall develop informational guidelines, containing general reference information on evidence collection, examination of victims and psychological and medical treatment for victims of sexual assault and attempted sexual assault, including child molestation.

In developing the protocol and the informational guidelines, the office and the advisory committee shall seek the assistance and guidance of organizations assisting victims of sexual assault; nurses, physicians and surgeons, criminalists, and administrators who are familiar with emergency room procedures; victims of sexual assault; and law enforcement officials.

(c) The office, in cooperation with the State Department of Health Services and the Department of Justice, shall adopt a standard and a complete form or forms for the recording of medical and physical evidence data disclosed by a victim of sexual assault or attempted sexual assault, including child molestation.

Each physician and surgeon or other health care professional in a public or private general acute care hospital who conducts an examination for evidence of a sexual assault or attempted sexual assault, including child molestation, shall use the standard form adopted pursuant to this section, and shall make such observations and perform such tests as may be required for recording of the data required by the form. The forms shall be subject to the same principles of confidentiality applicable to other medical records.

The office shall make copies of the standard form or forms available to every public or general acute care hospital, as requested.

The standard form shall be used to satisfy the reporting requirements specified in Sections 11160 and 11161 in cases of sexual assault, and may be used in lieu of the form specified in Section 11168 for reports of child abuse.

(d) The office shall distribute copies of the protocol and the informational guidelines to every general acute care hospital, law enforcement agency, and prosecutor's office in the state.

SEC. 6. Section 13823.7 is added to the Penal Code, to read:

13823.7. The protocol adopted pursuant to Section 13823.5 for the examination and treatment of victims of sexual assault or attempted sexual assault, including child molestation, and the collection and preservation of evidence therefrom shall include provisions for all of the following:

(a) Notification of injuries and a report of suspected child sexual abuse to law enforcement authorities.

(b) Obtaining consent for the examination, for the treatment of injuries, for the collection of evidence, and for the photographing of injuries.

(c) Taking a patient history of sexual assault and other relevant medical history.

(d) Performance of the physical examination for evidence of sexual assault.

(e) Collection of physical evidence of assault.

(f) Collection of other medical specimens.

(g) Procedures for the preservation and disposition of physical evidence.

SEC. 7. Section 13823.9 is added to the Penal Code, to read:

13823.9. (a) Every public or private general acute care hospital that examines a victim of sexual assault or attempted sexual assault, including child molestation, shall comply with the standards specified in Section 13823.11 and the protocol and guidelines adopted pursuant to Section 13823.5.

(b) Each county with a population of more than 100,000 shall arrange that professional personnel trained in the examination of victims of sexual assault, including child molestation, shall be present or on call either in the county hospital which provides emergency medical services or in any general acute care hospital which has contracted with the county to provide emergency medical services. In counties with a population of 1,000,000 or more, the presence of these professional personnel shall be arranged at least one general acute care hospital for each 1,000,000 persons in the county.

(c) Each county shall designate at least one general acute care hospital to perform examinations on victims of sexual assault, including child molestation.

(d) (1) The protocol published by the Office of Criminal Justice Planning shall be used as a guide for the procedures to be used by every public or private general acute care hospital in the state for the examination and treatment of victims of sexual assault and attempted sexual assault, including child molestation, and the collection and preservation of evidence therefrom.

(2) The informational guide developed by the Office of Criminal Justice Planning shall be consulted where indicated in the protocol, as well as to gain knowledge about all aspects of examination and treatment of victims of sexual assault and child molestation.

SEC. 8. Section 13823.11 is added to the Penal Code, to read:

13823.11. The minimum standards for the examination and treatment of victims of sexual assault or attempted sexual assault, including child molestation and the collection and preservation of evidence therefrom include all of the following:

(a) Law enforcement authorities shall be notified.

(b) In conducting the physical examination, the outline indicated in the form adopted pursuant to subdivision (c) of Section 13823.5 shall be followed.

(c) Consent for a physical examination, treatment, and collection of evidence shall be obtained.

(1) Consent to an examination for evidence of sexual assault shall be obtained prior to the examination of a victim of sexual assault and shall include separate written documentation of consent to each of the following:

(A) Examination for the presence of injuries sustained as a result of the assault.

(B) Examination for evidence of sexual assault and collection of

physical evidence.

(C) Photographs of injuries.

(2) Consent to treatment shall be obtained in accordance with usual hospital policy.

(3) A victim of sexual assault shall be informed that he or she may refuse to consent to an examination for evidence of sexual assault, including the collection of physical evidence, but that such a refusal is not a ground for denial of treatment of injuries and for possible pregnancy and veneral disease, if the person wishes to obtain treatment and consents thereto.

(4) Pursuant to Section 34.9 of the Civil Code, a minor may consent to hospital, medical, and surgical care related to a sexual assault without the consent of a parent or guardian.

(5) In cases of known or suspected child abuse, the consent of the parents or legal guardian is not required. In the case of suspected child abuse and nonconsenting parents, the consent of the local agency providing child protective services or the local law enforcement agency shall be obtained. Local procedures regarding obtaining consent for the examination and treatment of, and the collection of evidence from, children from child protective authorities shall be followed.

(d) A history of sexual assault shall be taken.

The history obtained in conjunction with the examination for evidence of sexual assault shall follow the outline of the form established pursuant to subdivision (c) of Section 13823.5 and shall include all of the following:

(1) A history of the circumstances of the assault.

(2) For a child, any previous history of child sexual abuse and an explanation of injuries, if different from that given by parent or person accompanying the child.

(3) Physical injuries reported.

(4) Sexual acts reported, whether or not ejaculation is suspected, and whether or not a condom or lubricant was used.

(5) Record of relevant medical history.

(e) Each adult and minor victim of sexual assault who consents to a medical examination for collection of evidentiary material shall have a physical examination which includes, but is not limited to, all of the following:

(1) Inspection of the clothing, body, and external genitalia for injuries and foreign materials.

(2) Examination of the mouth, vagina, cervix, penis, anus, and rectum, as indicated.

(3) Documentation of injuries and evidence collected.

Prepubital children shall not have internal vaginal or anal examinations unless absolutely necessary (this does not preclude careful collection of evidence using a swab).

(f) The collection of physical evidence shall conform to the following procedures:

(1) Each victim of sexual assault who consents to an examination

for collection of evidence shall have the following items of evidence collected, except where he or she specifically objects:

(A) Clothing worn during assault.

(B) Foreign materials revealed by an examination of the clothing, body, external genitalia, and pubic hair combings.

(C) Swabs and slides from the mouth, vagina, rectum, and penis, as indicated, to determine the presence or absence of sperm and sperm motility, and for genetic marker typing.

(2) Each victim of sexual assault who consents to an examination for the collection of evidence shall have reference specimens taken, except when he or she specifically objects thereto. A reference specimen is a standard from which to obtain baseline information (for example: pubic and head hair, blood, and saliva for genetic marker typing). These specimens shall be taken in accordance with the standards of the local criminalistics laboratory.

(3) A baseline gonorrhea culture, and syphillis serology, shall be taken, if indicated by the history of contact. Specimens for a pregnancy test shall be taken, if indicated by the history of contact.

(g) Preservation and disposition of physical evidence shall conform to the following procedures:

(1) All swabs and slides shall be air dried prior to packaging.

(2) All items of evidence including laboratory specimens shall be clearly labeled as to the identity of the source and the identity of the person collecting them.

(3) The evidence shall have a form attached which documents its chain of custody and shall be properly sealed.

(4) The evidence shall be turned over to the proper law enforcement agency.

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. Reimbursement to local agencies and school districts for costs mandated by the state pursuant to this act shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code and, if the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), shall be made from the State Mandates Claims Fund.

SEC. 11. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code and Section 6 of Article XIII B of the California Constitution, no appropriation is made by this act pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 4 (commencing with Section 17550) of Part 7 of Division 2 of Title 2 of the Government Code.

CHAPTER 813

An act to amend Sections 5730, 5735, 5738, 5775, 5776, 5777, and 5783.5 of, the Business and Professions Code, relating to auctioneers.

[Approved by Governor September 19, 1985 Filed with Secretary of State September 19, 1985.]

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

SECTION 1. Section 5730 of the Business and Professions Code is amended to read:

5730. No individual may act as an auctioneer and no person may operate an auction company unless that individual or person holds an unexpired and otherwise valid license issued pursuant to this chapter. However, the requirements of this chapter do not apply to any of the following:

(a) An auction of goods conducted by an individual who personally owns those goods and who did not acquire the goods for resale.

(b) An auction conducted by, on behalf of, or under the direction of, any public authority, political candidate or party, church, or charitable organization. However, if the individual conducting the sale receives compensation or, by advertising or otherwise, holds himself or herself out as being available to engage in the sale of goods at auction for compensation, that individual shall be required to hold a license pursuant to this chapter.

(c) A sale of real estate.

(d) An automobile auction regulated by the Department of Motor Vehicles. However, an individual acting as an auctioneer at any such auto auction shall hold a license as required by this chapter, unless the auctioneer is licensed as a salesman by the Department of Motor Vehicles and is employed by the auto auction.

(e) An auction of livestock in any place designated by the Secretary of the United States Department of Agriculture as a stockyard pursuant to Section 202 of Chapter 9 of Title 7 of the United States Code. The exemption provided by this subdivision shall extend to individuals acting as auctioneers at any such livestock auction only if the sale is conducted under the jurisdiction of the United States Department of Agriculture.

(f) An auction conducted by an owner, as defined in Section 21701, if the goods are being auctioned to enforce a lien, or a judgment entered on a lien in favor of the owner, on goods stored at a self-service storage facility, and the lien is obtained pursuant to Chapter 10 (commencing with Section 21700) of Division 8.

SEC. 1.5. Section 5735 of the Business and Professions Code is amended to read:

5735. Upon compliance by the applicant with the requirements of Section 5731, except subdivision (g), the board may issue a

temporary permit authorizing the applicant to practice auctioneering, pending the results of the first licensing examination administered after the date of application. The temporary permit of an applicant who fails, or who does not appear at, the examination for which he or she is scheduled shall be void upon receiving notice thereof.

SEC. 2. Section 5738 of the Business and Professions Code is amended to read:

5738. Every person, before operating an auction company, shall obtain an auction company license. This provision does not apply to an individual who is a licensed auctioneer and operates an auction company as a sole proprietorship. A person seeking an initial license as an auction company shall meet all of the following requirements:

(a) File with the commission a completed application on a form prescribed by the board.

(b) Pay a nonrefundable application fee and the license fee in the amounts specified in Section 5791.

(c) File a surety bond in the amount and form prescribed in Article 3.5 (commencing with Section 5760).

(d) Provide proof that the applicant holds a valid seller's permit issued by the State Board of Equalization.

(e) Provide one set of fingerprints for each owner, partner, or officer, as applicable, on a form approved by the Department of Justice, and pay the fee specified in Section 5791 for the processing of each set of fingerprints except for any such owner, officer, or partner who is a licensed auctioneer.

SEC. 3. Section 5775 of the Business and Professions Code is amended to read:

5775. Every person licensed under this chapter shall do all of the following:

(a) Display his or her license, or a certified copy of the license issued by the board, in full and unobstructed view of the public at his or her principal place of business. A first violation of this subdivision is subject to a fine of fifty dollars ($50); a second violation is subject to a fine of seventy-five dollars ($75); and a third or subsequent violation is subject to a fine of one hundred dollars ($100).

(b) Disclose his or her name, trade or business name, telephone number, and state license number in all advertising of auctions. A first violation of this subdivision is subject to a fine of fifty dollars ($50); a second violation is subject to a fine of seventy-five dollars ($75); and a third or subsequent violation is subject to a fine of one hundred dollars ($100). This section shall not apply to business cards, business stationery, or to any advertisement which does not specify an auction date.

(c) Post a sign, the dimensions of which shall be at least 18 inches by 24 inches, at the main entrance to each auction, stating all of the following:

(1) That the auction is being conducted pursuant to Section 2328

of the Commercial Code, Section 535 of the Penal Code, and the provisions of the California Auctioneer and Auction Licensing Act.

(2) The name and address of the California Auctioneer Commission as designated by the commission.

A first violation of this subdivision is subject to a fine of fifty dollars ($50); a second violation is subject to a fine of seventy-five dollars ($75); and a third or subsequent violation is subject to a fine of one hundred dollars ($100).

(d) Post or distribute to the audience, the terms, conditions, restrictions, and procedures whereby goods will be sold at the auction, and announce any changes to those terms, conditions, restrictions, and procedures prior to the beginning of the auction sale. A first violation of this subdivision is subject to a fine of fifty dollars ($50); a second violation is subject to a fine of one hundred dollars ($100); and a third or subsequent violation is subject to a fine of two hundred fifty dollars ($250).

(e) Have in his or her possession at the time of any auction sale a pocket card, which shall be presented upon demand to any police officer, sheriff, state official, or citizen. This requirement applies only to licensed auctioneers. A first violation of this subdivision is subject to a fine of fifty dollars ($50); a second violation is subject to a fine of seventy-five dollars ($75); and a third or subsequent violation is subject to a fine of one hundred dollars ($100).

(f) Notify the executive officer of any acquisition of an auction company, specifying the address and the trade or business name of the auction company, within 30 days of acquisition. This requirement applies only to an acquisition by a licensed auctioneer who is not required to obtain an auction company license for the auction company. A violation of this subdivision is subject to a fine of one hundred dollars ($100).

(g) Notify the executive officer of the sale, transfer, closure, or change of address or trade or business name of any auction company for which that person holds the license, within 30 days of the sale, transfer, closure, or change. This subdivision applies only to a licensed auctioneer who is not required to obtain an auction company license for the auction company. A violation of this subdivision is subject to a fine of one hundred dollars ($100).

(h) Notify the executive officer of any change in address of record within 30 days of the change. A violation of this subdivision is subject to a fine of fifty dollars ($50).

(i) Notify the executive officer of any change in the officers of a corporate licensee within 30 days of the change. A violation of this subdivision is subject to a fine of fifty dollars ($50).

(j) Notify the executive officer of any change in the business or trade name of the licensee within 30 days of the change. A violation of this subdivision is subject to a fine of fifty dollars ($50).

(k) Keep and maintain, at the licensee's address of record, complete and correct records and accounts pertaining to the licensee's licensed activity for a period of not less than two years. The

records shall include the name and address of the owner or consignor and of any buyer of goods at any auction sale engaged in or conducted by the licensee, a description of the goods, the terms and conditions of the acceptance and sale of the goods, all written contracts with owners and consignors, and accounts of all moneys received and paid out, whether on the licensee's own behalf or as agent, as a result of those activities. A first violation of this subdivision is subject to a fine of five hundred dollars ($500); and a second or subsequent violation is subject to a fine of one thousand dollars ($1,000).

(*l*) Within 30 working days after the sale transaction, provide, or cause to be provided, an account to the owner or consignor of all goods that are the subject of an auction engaged in or conducted by the licensee. A first violation of this subdivision is subject to a fine of five hundred dollars ($500); and a second or subsequent violation is subject to a fine of one thousand dollars ($1,000).

(m) Within 30 working days after a sale transaction of goods, pay or cause to be paid, all moneys and proceeds due to the owner or the consignor of all goods that were the subject of an auction engaged in or conducted by the licensee, unless delay is compelled by legal proceedings or the inability of the licensee, through no fault of his or her own, to transfer title to the goods or to comply with any provision of this chapter, the Commercial Code, the Code of Civil Procedure, or any other applicable provision of law. A first violation of this subdivision is subject to a fine of one thousand dollars ($1,000); a second violation is subject to a fine of one thousand five hundred dollars ($1,500); and a third or subsequent violation is subject to a fine of two thousand dollars ($2,000).

(n) Maintain the funds of all owners, consignors, buyers, and other clients and customers, separate from his or her personal funds and accounts. A violation of this subdivision is subject to a fine of two hundred fifty dollars ($250).

(o) Immediately prior to offering any item for sale, disclose to the audience the existence and amount of any liens or other encumbrances on the item, unless the item is sold as free and clear. For the purposes of this subdivision, an item is "free and clear" if all liens and encumbrances on the item are to be paid prior to the transfer of title. A violation of this subdivision is subject to a fine of two hundred fifty dollars ($250), in addition to the requirement that the buyer be refunded, upon demand, the amount paid for any item that is the subject of the violation.

(p) Within two working days after an auction sale, return the blank check or deposit of each buyer who purchased no goods at the sale. A first violation of this subdivision is subject to a fine of one hundred dollars ($100); and a second or subsequent violation is subject to a fine of two hundred fifty dollars ($250).

(q) Within 30 working days of any auction sale, refund that portion of the deposit of each buyer that exceeds the cost of the goods purchased, unless delay is compelled by legal proceedings, by the

inability of the licensee, through no fault of his or her own, to transfer title to the goods or to comply with any provision of this chapter, the Commercial Code, the Code of Civil Procedure, or other applicable provision of law, or unless the buyer violated the terms of a written agreement that he or she take possession of purchased goods within a specified period of time. A first violation of this subdivision is subject to a fine of one hundred dollars ($100); and a second or subsequent violation is subject to a fine of two hundred fifty dollars ($250).

SEC. 4. Section 5776 of the Business and Professions Code is amended to read:

5776. In addition to other requirements and prohibitions of this chapter, it is a violation of this chapter for any person to do any of the following:

(a) Fail to comply with any provision of this code, any regulation of the board, or with any provision of the Vehicle Code, the Commercial Code (including, but not limited to, Sections 2328 and 2401), the Code of Civil Procedure, the Penal Code, or any law administered by the State Board of Equalization, relating to the auctioneering business, including, but not limited to, sales and the transfer of title of goods.

(b) Give false evidence of any kind to the board, any member thereof, or the executive officer, in obtaining or renewing a license. A violation of this subdivision is subject to a fine of two hundred fifty dollars ($250).

(c) Engage in or offer to engage in any activity for which a license is required by this chapter without holding such a license. A violation of this subdivision is subject to a fine of one thousand dollars ($1,000).

(d) Represent himself or herself as, or use the title of, auctioneer or auction company, or any other title whereby the person could be reasonably understood to be practicing or offering to practice as an auctioneer or auction company, unless he or she has obtained the license or licenses required by this chapter for the activity or activities. A violation of this subdivision is subject to a fine of one thousand dollars ($1,000).

(e) Aid or abet the activity of any other person that violates any provision of this chapter. A violation of this subdivision is subject to a fine of one thousand dollars ($1,000).

(f) Impersonate any licensee, or present or attempt to present as his or her own the license of another. A violation of this subdivision is subject to a fine of one thousand dollars ($1,000).

(g) Use or present, as if it were valid, an expired, suspended, or revoked license. A violation of this subdivision is subject to a fine of one thousand dollars ($1,000).

(h) Conduct any auction business for which a license is required as an individual, partnership, or corporation unless the person holds a valid license issued to that same individual, partnership, or corporation. A violation of this subdivision is subject to a fine of one thousand dollars ($1,000).

(i) Subvert or attempt to subvert any licensing examination or the administration of a licensing examination, including, but not limited to, any of the following:

(1) Conduct that violates the security of the examination materials: removing from the examination room any examination materials; the unauthorized photographic or other mechanical reproduction of any portion of the actual licensing examination; aiding by any means the unauthorized photographic or other mechanical reproduction of any portion of the actual licensing examination; paying or using professional or paid examination-takers for the purpose of reconstructing any portion of the licensing examination; obtaining examination questions or other examination material, except by specific authorization, either before, during, or after an examination or using or purporting to use any examination questions or materials that were improperly removed or taken from any examination for the purpose of instructing or preparing applicants for examinations; or selling, distributing, buying, receiving, or having unauthorized possession of any portion of a future, current, or previously administered licensing examination.

(2) Conduct that violates the standard of examination administration: communicating with any other examinee during the administration of a licensing examination; copying answers from another examinee or permitting one's answers to be copied by another examinee; having in one's possession during the administration of the licensing examination any books, equipment, notes, written or printed materials, or data of any kind, other than the examination materials distributed or otherwise authorized to be in one's possession during the examination; or impersonating any examinee or having an impersonator take the licensing examination on one's behalf.

A violation of this subdivision is subject to a fine of five hundred dollars ($500).

(j) Place or use any misleading or untruthful advertising or statements or make any substantial misrepresentation in conducting auctioneering business. A first violation of this subdivision is subject to a fine of five hundred dollars ($500); and a second or subsequent violation is subject to a fine of one thousand dollars ($1,000).

(k) Sell goods at auction before the auctioneer or auction company involved has first entered into a written contract with the owner or consignor of the goods, which contract sets forth the terms and conditions upon which the licensee accepts the goods for sale. The written contract shall include all of the following:

(1) The licensee's name, trade or business name, state license number, business address, and business telephone number.

(2) An inventory of the item or items to be sold at auction.

(3) A description of the services to be provided and the agreed consideration for the services, which description shall explicitly state which party shall be responsible for advertising and other expenses.

(4) The approximate date or dates when the item or items will be

sold at auction.

(5) A statement as to which party shall be responsible for insuring the item or items against loss by theft, fire, or other means.

(6) A disclosure that the licensee is bonded to, and licensed and regulated by, the California Auctioneer Commission, and a disclosure of the commission's current address.

A first violation of this subdivision is subject to a fine of two hundred fifty dollars ($250); a second violation is subject to a fine of five hundred dollars ($500); and a third or subsequent violation is subject to a fine of one thousand dollars ($1,000).

(*l*) Sell goods at auction before the auctioneer or auction company involved has first entered into a written contract with the auctioneer who is to conduct the auction, if other than the licensee, which specifies the duties to be performed by each party. A first violation of this subdivision is subject to a fine of one hundred dollars ($100); and a second or subsequent violation is subject to a fine of two hundred fifty dollars ($250).

(m) Fail to reduce to writing all amendments or addenda to any written contract with an owner or consignor or an auctioneer. A first violation of this subdivision is subject to a fine of one hundred dollars ($100); and a second or subsequent violation is subject to a fine of two hundred fifty dollars ($250).

(n) Fail to abide by the terms of any written contract required by this section. A first violation of this subdivision is subject to a fine of one hundred dollars ($100); and a second or subsequent violation is subject to a fine of two hundred fifty dollars ($250).

(o) Cause or allow any person to bid at a sale for the sole purpose of increasing the bid on any item or items being sold by the auctioneer, except as authorized by Section 2328 of the Commercial Code or by this chapter. A violation includes, but is not limited to, any of the following:

(1) Stating any increased bid greater than that offered by the last highest bidder when, in fact, no person has made such a bid.

(2) Allowing the owner, consignor, or agent thereof, of any item or items to bid on the item or items, without disclosing to the audience that the owner, consignor, or agent thereof has reserved the right to so bid.

(3) Any violation of Section 535 of the Penal Code.

A violation of this subdivision is subject to a fine of one hundred dollars ($100).

(p) Knowingly misrepresent the nature of any item or items to be sold at auction, including, but not limited to, age, authenticity, value, condition, or origin. A violation of this subdivision is subject to a fine of two hundred fifty dollars ($250); in addition, it shall be required that the buyer of the misrepresented item be refunded the purchase price of the item or items within 24 hours of return to the licensee of the item by the buyer, provided that the item is returned within five days after the date of the auction sale.

(q) Misrepresent the terms, conditions, restrictions, or

procedures under which goods will be sold at auction. A violation of this subdivision is subject to a fine of seventy-five dollars ($75).

(r) Sell any item subject to sales tax without possessing a valid and unrevoked seller's permit from the State Board of Equalization. A violation of this subdivision is subject to a fine of five hundred dollars ($500).

SEC. 5. Section 5777 of the Business and Professions Code is amended to read:

5777. In addition to other requirements and prohibitions of this chapter, it is grounds for denial, suspension, or revocation of an auctioneer or auction company license for the applicant or licensee, or any of its owners, partners, or officers, to have done any of the following:

(a) Violate any provision of Section 5776, which violation is also subject to a fine as specified in the applicable subdivisions of Section 5776.

(b) Be convicted of forgery, embezzlement, obtaining money under false pretenses, extortion, conspiracy to defraud, receiving stolen property, issuance of insufficient fund checks, or any similar offense substantially related to the auctioneering profession.

(c) Be adjudicated a bankrupt or make an assignment for the benefit of creditors while a licensee or within two years immediately preceding the filing of an application for a license.

(d) Committed any act, while unlicensed, which would be grounds for suspension or revocation of a license.

SEC. 6. Section 5783.5 of the Business and Professions Code is amended to read:

5783.5. If the licensee disagrees with the decision of the DRC, he or she may request an administrative hearing within 30 days of issuance of the decision, to be held in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. If the licensee fails to either request a hearing or to pay the assessed fine as specified by the DRC within 30 days of the date of the DRC's decision, the license of the licensee shall be automatically revoked. If the licensee fails to either appeal the board's decision or to pay the assessed fine ordered by the board following an administrative hearing, within 30 days after service of the board's decision, the license of the licensee shall be automatically revoked.

CHAPTER 814

An act to amend, repeal, and add Section 31303 of, and to add Sections 31304, 31305, 31306, 31307, and 31308 to, the Vehicle Code, relating to hazardous materials.

[Approved by Governor September 19, 1985. Filed with Secretary of State September 19, 1985]

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

SECTION 1. Section 31303 of the Vehicle Code is amended to read:

31303. (a) Except as provided in subdivision (b), the following requirements apply to the transportation of hazardous waste for which registration is required pursuant to Section 25163 of the Health and Safety Code, other than radioactive materials subject to Division 14.5 (commencing with Section 33000):

(1) Transportation from the point of origin to the appropriate waste facility shall be by the most direct route, utilizing state or interstate highways wherever possible. When transporting within a city or any other congested area, exceptions to direct routes shall be made in order to avoid congested thoroughfares, places where crowds are assembled, and residence districts as defined in Section 515. Vehicles subject to this section may also use highways which provide reasonable access to fuel, repair, rest, or food facilities that are designed and intended to accommodate commercial vehicle parking, when that access is consistent with safe vehicle operation and when the facility is within one-half road mile of points of entry or exit from the state or interstate highway being used.

(2) Only highways of sufficient width and load bearing capacity for the vehicle or combination of vehicles shall be used.

(3) Vehicles shall not be left unattended or parked overnight in a residence district, as defined in Section 515.

(4) When transporting hazardous waste pursuant to Section 25169.3 of the Health and Safety Code, all provisions of the waste hauler transportation safety plan, as approved by the State Department of Health Services, shall be complied with.

(5) Deviation from the routes required by this subdivision shall not be excused on the basis of operating convenience, unless in an emergency and with the concurrence of a member of the California Highway Patrol.

(b) The Department of the California Highway Patrol, after consultation with the State Department of Transportation or the city or county agency with traffic control jurisdiction over a highway, may prohibit vehicles transporting hazardous waste subject to this section from using that highway if all of the following requirements are met:

(1) The highway is posted, in conformity with standards of the Department of the California Highway Patrol, by the agency having jurisdiction over the highway.

(2) The highway is included in a list of highways restricted pursuant to this subdivision published by the Department of the California Highway Patrol and available to interested parties for not less than 14 days.

(3) The highway is appreciably less safe than a reasonable alternate highway as determined by using the "Guidelines for Applying Criteria to Designate Routes for Transporting Hazardous Materials" prepared by the Federal Highway Administration (FHWA A-IP-80-15).

(4) The restriction on the use of the highway pursuant to this subdivision is not precluded or preempted by federal law.

(5) A finding is made by the Department of the California Highway Patrol that the impact of the proposed highway restriction on surrounding jurisdictions has been considered.

The list of restricted highways developed by the Department of the California Highway Patrol shall be published by the department every six months.

(c) It is unlawful for the owner of any vehicle or the authorized agent of the owner to drive, or to direct or knowingly permit the driving of, the vehicle in violation of this section. Violation of any provision of this section is a misdemeanor punishable as follows:

(1) For a first violation, a fine not exceeding five hundred dollars ($500) or imprisonment in the county jail not exceeding 30 days, or both that fine and imprisonment.

(2) For a second violation, a fine not exceeding one thousand dollars ($1,000) or imprisonment in the county jail not exceeding 60 days, or both that fine and imprisonment.

(3) For a third or subsequent violation, a fine not exceeding two thousand five hundred dollars ($2,500) or imprisonment in the county jail not exceeding 120 days, or both that fine and imprisonment.

(d) Additionally, upon recommendation of the Department of the California Highway Patrol, three or more violations of this section constitute grounds for suspension or revocation of registration or denial of an application for registration under Section 25163 of the Health and Safety Code by the State Department of Health Services. Proceedings in these cases shall be subject to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(e) Nothing contained in this section shall be deemed to exempt any person subject to this section from other provisions of this code.

(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 enacted before January 1, 1987, deletes or extends that date.

SEC. 2. Section 31303 is added to the Vehicle Code, to read:

31303. (a) The provisions of this section apply to the highway transportation of hazardous materials and hazardous waste for which the display of placards or markings is required pursuant to Section 27903. This section does not apply to hazardous materials being transported on specified routes pursuant to Section 31616 or 33000.

(b) Unless restricted or prohibited pursuant to Section 31304, the transportation shall be on state or interstate highways which offer the least overall transit time whenever practicable.

(c) The transporter shall avoid, whenever practicable, congested thoroughfares, places where crowds are assembled, and residence districts as defined in Section 515.

(d) Vehicles used for the transportation shall not be left unattended or parked overnight in a residence district as defined in Section 515.

(e) When transporting hazardous waste pursuant to Section 25169.3 of the Health and Safety Code, all provisions of the waste hauler transportation safety plan, as approved by the State Department of Health Services, shall be complied with.

(f) Transportation which deviates from the routes required by this section shall not be excused on the basis of operating convenience.

(g) Notwithstanding subdivisions (b) and (c), vehicles engaged in the transportation may also use any of the following highways:

(1) Highways which provide necessary access to local pickup or delivery points consistent with safe vehicle operation.

(2) Highways which provide reasonable access to fuel, repairs, rest, or food facilities that are designed and intended to accommodate commercial vehicle parking, when that access is consistent with safe vehicle operation and when the facility is within one-half road mile of points of entry or exit from the state or interstate highway being used.

(3) Highways restricted or prohibited pursuant to this section when no other lawful alternative exists.

(h) This section shall become operative on January 1, 1987.

SEC. 3. Section 31304 is added to the Vehicle Code, to read:

31304. (a) The transportation of hazardous materials and hazardous waste for which the display of placards or markings is required pursuant to Section 27903 may be restricted or prohibited, by the Department of the California Highway Patrol, after consultation with the State Department of Transportation, with regard to state or interstate highways, or by a city or county by ordinance or resolution, after formal notice to the Department of the California Highway Patrol and with the concurrence of their appropriate transportation planning agency defined in Section 29532 of the Government Code, with regard to specified highways under their control, if all of the following requirements are met:

(1) The respective highway is appreciably less safe than a reasonable alternate highway as determined by using the "Guidelines for Applying Criteria to Designate Routes for Transporting Hazardous Materials" prepared by the Federal Highway Administration (FHWA A-IP-80-15).

(2) The restriction or prohibition on the use of the highway pursuant to this section is not precluded or preempted by federal law.

(3) The restriction or prohibition does not eliminate necessary access to local pickup or delivery points consistent with safe vehicle operation; does not eliminate reasonable access to fuel, repairs, rest,

or food facilities that are designed and intended to accommodate commercial vehicle parking, when that access is consistent with safe vehicle operation and when the facility is within one-half road mile of points of entry or exit from the state or interstate highway being used; or does not restrict or prohibit the use of highways when no other lawful alternative exists.

(4) Written concurrence has been obtained from affected surrounding jurisdictions that the proposed restriction or prohibition is not incompatible with through transportation. If written concurrence is not granted by one of the affected surrounding jurisdictions, that action may be appealed to the appropriate transportation planning agency for final resolution.

(5) The highway is posted by the agency responsible for highway signs on that highway in conformity with standards of the State Department of Transportation.

(6) A list of the routes restricted or prohibited is submitted to the Department of the California Highway Patrol.

(7) The highway is included in a list of highways restricted or prohibited pursuant to this section which is published by the Department of the California Highway Patrol and is available to interested parties for not less than 14 days.

(b) Notwithstanding any prohibition or restriction adopted pursuant to subdivision (a), deviation from restricted or prohibited routes is authorized in an emergency or other special circumstances with the concurrence of a member of the agency having traffic law enforcement authority for the highway.

(c) This section shall become operative on January 1, 1987.

SEC. 4. Section 31305 is added to the Vehicle Code, to read:

31305. (a) Upon receipt of a written petition from a local jurisdiction or motor carrier adversely affected by a restriction or prohibition adopted pursuant to Section 31304, the Department of the California Highway Patrol may preempt any local restriction or prohibition that, in its opinion, is not compatible with reasonable and necessary access or the use of highways when no other lawful alternative exists as provided for in paragraph (3) of subdivision (a) of that section, or through transportation as provided for in paragraph (4) of subdivision (a) of that section.

(b) Upon receipt of a written petition from a local jurisdiction or motor carrier adversely affected by a preemption issued pursuant to subdivision (a), the Department of the California Highway Patrol, after holding a public hearing, shall render a decision upholding or denying the petition.

(c) This section shall become operative on January 1, 1987.

SEC. 5. Section 31306 is added to the Vehicle Code, to read:

31306. (a) A list of highways restricted or prohibited pursuant to subdivision (a) of Section 31304 shall be published or updated by the Department of the California Highway Patrol semiannually.

(b) This section shall become operative on January 1, 1987.

SEC. 6. Section 31307 is added to the Vehicle Code, to read:

31307. (a) It is unlawful for the owner of any vehicle or the authorized agent of the owner to drive, or to direct or knowingly permit the driving of, the vehicle in violation of Section 31303 or 31304. Violation of any of these sections is a misdemeanor punishable as follows:

(1) For a first violation, a fine not exceeding five hundred dollars ($500), imprisonment in the county jail not exceeding 60 days, or both the fine and imprisonment.

(2) For a second violation within a 12-month period, a fine not exceeding one thousand dollars ($1,000), imprisonment in the county jail not exceeding 60 days, or both the fine and imprisonment.

(3) For a third or subsequent violation within a 12-month period, a fine not exceeding two thousand five hundred dollars ($2,500), imprisonment in the county jail not exceeding 120 days, or both the fine and imprisonment.

(b) Additionally, upon recommendation of the Department of the California Highway Patrol, three or more violations of these sections constitute grounds for suspension or revocation of registration, or denial of an application for registration under Section 25163 of the Health and Safety Code by the State Department of Health Services. Proceedings in these cases shall be subject to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(c) This section shall become operative on January 1, 1987.

SEC. 7. Section 31308 is added to the Vehicle Code, to read:

31308. (a) Nothing contained in Section 31303 or 31304 shall be deemed to exempt any person subject to these sections from other provisions of this code.

(b) This section shall become operative on January 1, 1987.

SEC. 8. No reimbursement is required by this act pursuant to 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 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 815

An act to add Section 6705.5 to the Labor Code, relating to occupational safety and health.

[Approved by Governor September 19, 1985 Filed with Secretary of State September 19, 1985]

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

SECTION 1. Section 6705.5 is added to the Labor Code, to read:

6705.5. Regulations of the department requiring the shoring, bracing, or sloping of excavations, or which contain similar requirements for excavations, shall only apply to the excavation of swimming pools where a reasonable examination by a qualified person reveals recognizable conditions which would expose employees to injury from possible moving ground. If these conditions are found to exist with respect to a swimming pool excavation, employees shall not be permitted to enter the excavation until the condition is abated or otherwise no longer exists.

CHAPTER 816

An act to amend Section 35240 of, to repeal Sections 35234, 35235, 35236, 35237, 35238, 72534, 72535, 72536, 72537, and 72538 of, and to repeal and add Sections 35233 and 72533 of, the Education Code, relating to governing boards of school districts and community college districts.

[Approved by Governor September 19, 1985 Filed with Secretary of State September 19, 1985]

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

SECTION 1. Section 35233 of the Education Code is repealed.

SEC. 2. Section 35233 is added to the Education Code, to read:

35233. The prohibitions contained in Article 4 (commencing with Section 1090) and Article 4.7 (commencing with Section 1125) of Division 4 of Title 1 of the Government Code are applicable to members of governing boards of school districts.

SEC. 3. Section 35234 of the Education Code is repealed.

SEC. 4. Section 35235 of the Education Code is repealed.

SEC. 5. Section 35236 of the Education Code is repealed.

SEC. 6. Section 35237 of the Education Code is repealed.

SEC. 7. Section 35238 of the Education Code is repealed.

SEC. 8. Section 35240 of the Education Code is amended to read:

35240. Any contract made in violation of Section 35239 is void.

SEC. 9. Section 72533 of the Education Code is repealed.

SEC. 10. Section 72533 is added to the Education Code, to read:

72533. The prohibitions contained in Article 4 (commencing with Section 1090) and Article 4.7 (commencing with Section 1125) of Division 4 of Title 1 of the Government Code are applicable to members of governing boards of community college districts.

SEC. 11. Section 72534 of the Education Code is repealed.

SEC. 12. Section 72535 of the Education Code is repealed.

SEC. 13. Section 72536 of the Education Code is repealed.

SEC. 14. Section 72537 of the Education Code is repealed.

SEC. 15. Section 72538 of the Education Code is repealed.

SEC. 16. No reimbursement is required by this act pursuant to 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 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 817

An act to amend Section 69993 of the Government Code, relating to courts, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 19, 1985. Filed with Secretary of State September 19, 1985]

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

SECTION 1. Section 69993 of the Government Code is amended to read:

69993. (a) In San Joaquin County, on and after January 1, 1985, the amount of compensation for each official reporter of the superior court shall be deemed, for retirement purposes, to include the total of all per diem and transcription fees paid by the county in all matters to all such reporters, divided by the number of such reporters; provided, that such amount does not exceed the equivalent of two thousand five hundred dollars ($2,500) per month. The number of superior court reporters shall not exceed at any one time the number of San Joaquin County Superior Court judicial positions. No pro tempore reporter shall be included in the San Joaquin County retirement system.

(b) In San Joaquin County, on and after January 1, 1985, any official court reporter of the municipal court, who held such position on December 1, 1984, shall be part of the San Joaquin County retirement system and such person's salary for retirement purposes shall be the total of all per diem and transcription fees paid by the county in all matters to the official court reporter of the municipal court for all phonographic reporting services, including those services provided as a pro tempore reporter for the San Joaquin County Superior Court, divided by the number of official municipal court reporters; provided, however, that such amount shall not exceed the equivalent of two thousand five hundred dollars ($2,500) per month. No pro tempore reporter of the municipal court shall be included in the San Joaquin County retirement system.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program

specified in this act.

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 assure orderly and continuous personnel management of the official court reporters of San Joaquin County, it is necessary that this act take effect immediately.

CHAPTER 818

An act to amend Section 4026.2 of, and to add Section 4026.3 to, the Health and Safety Code, relating to health, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 19, 1985 Filed with Secretary of State September 19, 1985]

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

SECTION 1. Section 4026.2 of the Health and Safety Code is amended to read:

4026.2. (a) The Legislature finds that the department has complied with subdivision (b) of Section 4026.1 by submitting the plan, "A Program for Detecting and Monitoring Organic Chemical Contaminants in Drinking Water" in November 1981.

(b) Pursuant to the proposed plan, and within three months after the effective date of this section, the department shall do the following:

(1) Conduct an evaluation of each public water system to determine the potential for contamination. This evaluation shall include, but not be limited to:

(A) A review of the historical water quality data of each system to determine possible evidence of degradation.

(B) A review, to be coordinated with the State Water Resources Control Board and the California regional water quality control boards, of past and present waste disposal practices that may potentially affect the respective well water supply.

(C) A review of other organic chemicals used in the water supply area, which have potential health risks and may have the potential for contaminating drinking water supplies because of environmental persistence or resistance to natural degradation under conditions existing in California.

(2) Upon a determination by the department that a public water system is subject to potential contamination, the department shall notify the public water system of the specific contaminants or class of contaminants to be analyzed. The department, when applicable, shall require the public water system to use the Environmental

Protection Agency's 13 approved analytical techniques as established under subdivision (h) of Section 304 of the Clean Water Act to qualitatively identify the complete range of contaminants in the same class as the specific contaminant or class of contaminants being analyzed. The department shall begin notifying public water systems within three months after the effective date of this section, notifying first those public water systems with the greater health risks and potential for contaminating drinking water, and shall complete the notification process within 12 months after the effective date of this statute.

(3) Upon notification by the department, the public water system shall prepare a proposed systematic water analysis plan for the contaminants. The proposed plan shall be submitted to the department within 90 days of receipt of the notification. The department shall approve, modify, or return for modification all plans within 30 days of receipt of the water analysis plan.

(4) Following receipt of an approved plan from the department, the public water system shall conduct the water analysis and submit a water analysis report to the department within 90 days, in accordance with the approved plan.

(5) After reviewing the report, the department may, by order, require the public water system to conduct a periodic water analysis in accordance with conditions specified by the department. The water analysis shall be reported on a quarterly basis, unless the department finds that reasonable action requires either more frequent or less frequent analysis.

The report shall be considered a complete report within the meaning of, and for the purposes of, Section 4023.

(c) Except as otherwise provided in Section 4026.3, public water systems with 200 connections or less are exempt from this section.

SEC. 2. Section 4026.3 is added to the Health and Safety Code, to read:

4026.3. (a) The Legislature finds and declares all of the following:

(1) The large water system testing program has discovered chemical contamination of the state's drinking water with increasing frequency.

(2) A significant number of California residents rely on the state's small water systems to provide their water.

(3) The small systems, because they tend to be located in outlying rural areas where pesticide use is prevalent, and because they draw their water from shallow aquifers, face a serious threat of contamination.

(4) Unchecked water sources that may be contaminated pose a potentially serious threat to the health of the citizens of California, particularly those living in outlying rural areas.

(5) It is in the interest of all Californians that a testing program for small public water systems be implemented and carried out as expeditiously as possible.

(b) For purposes of this section, "small public water system" means a system with 200 connections or less, and is one of the following:

(1) A community water system which serves at least 15 service connections used by yearlong residents or regularly serves at least 25 yearlong residents.

(2) A state small water system.

(3) A noncommunity water system such as a school, labor camp, institution, or place of employment, as designated by the department.

(c) The department shall conduct training workshops to assist health officers in evaluation of small public water systems for organic chemical contamination, and in sampling and testing procedures. The department shall, at a minimum, provide health officers with guidelines for evaluating systems and instructions for sampling.

(d) The department shall develop a schedule for conduct of the programs by the local health officers. The schedule shall establish a program to address first those systems with the most serious potential for contamination. The department shall enter into agreements with the local health agencies to conduct the necessary work to be performed pursuant to the schedule. The department shall begin the program no later than three months after the effective date of this section. All local health officers shall complete the evaluation, sampling, testing, review of sampling results, and notification to the public water systems within their jurisdiction in accordance with the agreements entered into with the department and within the schedule established by the department. All work required by this section shall be completed within three years of the effective date of this section.

(e) In consultation with the department, the local health officer shall conduct an evaluation of all small public water systems under their jurisdictions to determine the potential for contamination of groundwater sources by organic chemicals. These evaluations shall follow the criteria set forth under paragraph (1) of subdivision (b) of Section 4026.2.

(f) Based upon the evaluation of each system, the local health officers shall develop a sampling plan for each system within their jurisdiction. The health officer shall collect samples in accordance with the plan and shall submit the samples for analysis to a certified laboratory designated by the department. When applicable, the laboratory shall test water samples using the Environmental Protection Agency's 13 approved analytical techniques established under subdivision (h) of Section 304 of the Clean Water Act to qualitatively identify the complete range of contaminants in the same class as the specific contaminant or class of contaminants being analyzed.

(g) Within 10 days of the receipt from the laboratory of the testing results, the local health officer shall notify the small public water system, the department and the California regional water quality

control board for that region of the results.

(h) Following a review of the testing results, the local health officer may order the public water system to conduct a periodic water sampling and analysis program in accordance with conditions specified by the local health officer. The department shall provide ongoing advice and assistance to local health officers in interpreting test results and determining appropriate notification and followup activities in those instances where contaminants are found.

(i) This section shall be operative during any fiscal year only if the Legislature appropriates sufficient funds to pay for all state-mandated costs to be incurred by local agencies pursuant to this section during that year.

SEC. 3. Reimbursement to local agencies and school districts for costs mandated by the state pursuant to this act shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code and, if the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), shall be made from the State Mandates Claims 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 to protect the health and safety of individuals served by small public water systems who may be receiving water contaminated by organic chemicals, it is necessary for this act to take effect immediately.

CHAPTER 819

An act to amend Sections 1525, 1526, 1529, 1529.1, 1530, 1531, 1531.5, 1532, 1532.1, 1532.2, 1533, 1540, 1546, and 1547 of, and to add Section 1547.1 to, the Water Code, relating to water rights.

[Approved by Governor September 19, 1985 Filed with Secretary of State September 19, 1985]

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

SECTION 1. Section 1525 of the Water Code is amended to read:

1525. Every person making application for a permit to appropriate water shall pay to the board at the time of filing the application a filing fee of one hundred dollars ($100).

SEC. 2. Section 1526 of the Water Code is amended to read:

1526. The one hundred dollar ($100) fee is a minimum fee but shall be a credit to the extent of one hundred dollars ($100) whenever the fee due totals more than one hundred dollars ($100) under the schedule provided in this article and, in that case, the

further fee due shall be the total computed amount less one hundred dollars ($100).

SEC. 3. Section 1529 of the Water Code is amended to read:

1529. For each cubic foot per second or fractional cubic foot per second of direct diversion from one cubic foot per second to and including 100 cubic feet per second, the fee is at the rate of ten dollars ($10) per cubic foot per second.

SEC. 4. Section 1529.1 of the Water Code is amended to read:

1529.1. For each cubic foot per second or fractional cubic foot per second of direct diversion over 100 cubic feet per second to and including 500 cubic feet per second, the fee is at the rate of twelve dollars ($12) per cubic foot per second.

SEC. 5. Section 1530 of the Water Code is amended to read:

1530. For each cubic foot per second or fractional cubic foot per second of direct diversion over 500 cubic feet per second to and including 2,000 cubic feet per second, the fee is at the rate of fifteen dollars ($15) per cubic foot per second.

SEC. 6. Section 1531 of the Water Code is amended to read:

1531. For each cubic foot per second or fractional cubic foot per second of direct diversion over 2,000 cubic feet per second, the fee is at the rate of twenty dollars ($20) per cubic foot per second.

SEC. 7. Section 1531.5 of the Water Code is amended to read:

1531.5. For power purposes, for each 100 theoretical horsepower or fraction thereof resulting from direct diversion, the fee is at the rate of two dollars ($2) per 100 theoretical horsepower. This rate and the resulting fee shall be in lieu of rates otherwise provided in this article.

SEC. 8. Section 1532 of the Water Code is amended to read:

1532. For each acre-foot or fractional acre-foot per annum of storage to and including 1,000 acre-feet per annum, the fee is at the rate of ten cents ($0.10) per acre-foot.

SEC. 9. Section 1532.1 of the Water Code is amended to read:

1532.1. For each acre-foot or fractional acre-foot per annum of storage over 1,000 acre-feet per annum to and including 5,000 acre-feet per annum, the fee is at the rate of twelve cents ($0.12) per acre-foot.

SEC. 10. Section 1532.2 of the Water Code is amended to read:

1532.2. For each acre-foot or fractional acre-foot per annum of storage over 5,000 acre-feet per annum to and including 100,000 acre-feet per annum, the fee is at the rate of fifteen cents ($0.15) per acre-foot.

SEC. 11. Section 1533 of the Water Code is amended to read:

1533. For each acre-foot or fractional acre-foot per annum of storage over 100,000 acre-feet per annum, the fee is at the rate of twenty cents ($0.20) per acre-foot.

SEC. 14. Section 1540 of the Water Code is amended to read:

1540. (a) A fee equal to one-half the amount computed by using the schedules in Article 1 (commencing with Section 1525) based on the approved application amount shall be paid to the board at the

time the permit is issued.

(b) The board shall notify the applicant by registered mail of the amount of the fee which shall be paid before issuance of the permit. If the fee is not received by the board within 30 days after the notice has been mailed the application shall be canceled.

(c) The minimum fee shall be one hundred dollars ($100).

SEC. 15. Section 1546 of the Water Code is amended to read:

1546. Every person making application for an extension of time within which to begin construction, to complete construction, or to apply the water to full beneficial use under a permit shall pay to the board at the time of making the application a fee of fifty dollars ($50).

SEC. 16. Section 1547 of the Water Code is amended to read:

1547. Every person filing a petition for permission to change the point of diversion, place of use, or purpose of use pursuant to Chapter 10 (commencing with Section 1700) shall pay to the board at the time of filing the petition a fee of one hundred dollars ($100).

SEC. 17. Section 1547.1 is added to the Water Code, to read:

1547.1. Every person filing a petition for permission to make a transfer of water or water rights pursuant to Section 386, 1010, or 1011 or Article 2 (commencing with Section 1735) of Chapter 10.5 for use outside of the basin in which the water originates shall pay to the board at the time of filing the petition a fee equal to 25 percent of the amount computed by using the schedules in Article 1 (commencing with Section 1525).

CHAPTER 820

An act to add Chapter 14 (commencing with Section 4990) to Division 2 of, and to repeal Chapter 17 (commencing with 9000) of Division 3 of, the Business and Professions Code, relating to social workers.

[Approved by Governor September 19, 1985 Filed with Secretary of State September 19, 1985]

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

SECTION 1. Chapter 14 (commencing with Section 4990) is added to Division 2 of the Business and Professions Code, to read:

CHAPTER 14. SOCIAL WORKERS

Article 1. Administration

4990. This chapter of the Business and Professions Code constitutes the chapter on social workers. It is to be liberally construed to effect its objectives.

4990.1. There is in the Department of Consumer Affairs a Board

of Behavioral Science Examiners which consists of 11 members.

4990.2. Wherever "Board of Social Work Examiners of the State of California" or "Social Worker and Marriage Counselor Qualifications Board of the State of California" is used in any law or regulations of this state it shall mean the Board of Behavioral Science Examiners.

4990.3. Two members of the board shall be state-licensed clinical social workers, one shall be a licensed educational psychologist, two shall be state-licensed marriage, family and child counselors, and six shall be public members. Each member, except the six public members, shall hold at least a master's degree from an accredited college or university and shall have at least two years of experience in his or her profession.

4990.4. "Approved school of social work," within the meaning of this chapter, is a school which is eligible for membership in the American Association of Schools of Social Work or accredited by the Commission on Accreditation of the Council on Social Work Education.

4990.5. Each member of the board, except the members first appointed, shall be appointed for a term of four years and shall hold office until the appointment and qualification of his or her successor or until one year shall have elapsed since the expiration of the term for which he or she was appointed, whichever first occurs. Vacancies occurring shall be filled by appointment for the unexpired term.

The Governor shall appoint four of the public members and the five licensed members qualified as provided in Section 4990.4 with the advice and consent of the Senate. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member, and their initial appointment shall be made to fill, respectively, the first and second public member vacancies which occur on or after January 1, 1983.

4990.6. Not later than the first of March of each calendar year, the board shall elect a chairperson and a vice chairperson from its membership.

4990.7. The board shall appoint an executive officer, which position is hereby designated as a confidential position and exempt from civil service under subdivision (e) of Section 4 of Article VII of the California Constitution.

The executive officer shall have the same qualifications required of a member of the board, and shall serve at its pleasure.

4990.8. The executive officer shall exercise the powers and perform the duties delegated by the board and vested in him or her by this chapter.

4990.9. With the approval of the Director of Consumer Affairs, the board shall fix the salary of the executive officer.

4990.10. Subject to the State Civil Service Act and Section 159.5, the board may employ such clerical, technical, and other assistants as it deems necessary, within budget limitations.

4990.11. The board shall keep an accurate record of all of its

proceedings and a register of all applicants for licenses and of all individuals to whom a license as a licensed clinical social worker is issued.

4990.12. The board may conduct research in, and make studies of problems involved in, the maintaining of professional standards among those engaged in social service work in California and may publish its recommendations thereon.

4990.13. The duty of enforcing this chapter is vested in the board and the executive officer subject to and under the direction of the board.

In the performance of this duty, the board and the executive officer have all the powers and are subject to all the responsibilities vested in and imposed upon the head of a department by Chapter 2 (commencing with Section 11150) of Part 1 of Division 3 of Title 2 of the Government Code.

4990.14. The board may make such rules and regulations as may be necessary for the enforcement of this chapter and may by rule and regulation prescribe the qualifications for licensure.

4990.15. The board shall have and use a seal bearing the words "The Board of Behavioral Science Examiners," and shall otherwise conform to Section 107.5.

4990.16. Each member of the board shall receive a per diem and expenses as provided in Section 103.

Article 2. Application of Chapter

4992. Every applicant for a license under this chapter shall file an application with the board accompanied by the application fee prescribed by this chapter.

The application shall contain information showing that the applicant has all the qualifications required by the board for admission to the examination.

4992.1. Only individuals who have the qualifications prescribed by the board under this chapter are eligible to take the examination.

Every applicant who is issued a clinical social worker license shall be examined by the board.

4992.2. The action of the board upon the acceptance and rejection of applicants and the grading of examinations is final and not subject to review.

Every applicant whose application for a license has been rejected or who has failed to pass the examination may apply to the board for a reconsideration of its action at a public hearing. The application for reconsideration shall be filed with the board within 30 days after notice of the rejection or failure was received and only one application for reconsideration may be filed upon any one application for a certificate or upon any one application for an examination.

4992.3. The board may suspend or revoke the license of any licensee if:

(a) He or she is convicted of an offense substantially related to the qualifications, functions, or duties of a social worker.

(b) He or she uses intoxicating liquor or narcotic or hypnotic drugs to such an extent that in his or her activities as a social worker he or she is likely to endanger the health, welfare, or safety of the public.

(c) He or she advocates the overthrow of the government by force and violence or other unlawful means.

(d) He or she has committed a dishonest or fraudulent act as a social worker resulting in substantial injury to another.

4992.4. The proceedings for the suspension or revocation of licenses under this chapter 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.

4992.5. Examinations may be held at such times and places as the board may determine. However, one examination shall be held during each calendar year.

4992.6. No blind person shall be denied admission to any school of social work, training, or admission to any examination, or denied a license as a licensed clinical social worker, on the ground that he or she is blind.

4992.7. Every person who willfully makes any false statement or who impersonates any other person or permits or aids any other person to impersonate him or her in connection with any application or examination is guilty of a misdemeanor.

Article 3. Revenue

4994. Notwithstanding Section 13340 of the Government Code and except as provided in Section 4984.6, all moneys in the Behavioral Science Examiners Fund are continuously appropriated to the board, to be expended by it for the purposes of the programs under its jurisdiction.

Article 4. Clinical Social Workers

4996. Only individuals who have received a license under this article may style themselves as "Licensed Clinical Social Workers." Every individual who styles himself or herself or who holds himself or herself out to be a licensed clinical social worker, or who uses any words or symbols indicating or tending to indicate that he or she is a licensed clinical social worker, without holding his or her license in good standing under this article, is guilty of a misdemeanor.

It is unlawful for any person to engage in the practice of clinical social work unless at the time of so doing such person holds a valid, unexpired, and unrevoked license under this article.

4996.1. The board shall issue a licensed clinical social worker license to each applicant who qualifies therefor, and if required to

take it, successfully passes the examination given pursuant to this article.

4996.2. Each applicant shall furnish evidence satisfactory to the board that he or she complies with all of the following requirements:

(a) Is at least 21 years of age.

(b) Has received a master's degree from an accredited school of social work.

(c) Has had two years of full-time post-masters' experience, acceptable to the board, in the use of psychosocial and psychotherapeutic methods and measures in a hospital, clinic, or agency. One year of that experience shall have been in a hospital, clinic, or agency in which the applicant, under professional supervision or with professional consultation or both, has employed those methods or measures. The board may establish standards for equivalent means of meeting the requirements of this subdivision. The standards shall insure that the performance of services authorized by Section 4996.5 by persons complying with the standards shall be done in a manner which protects the health and welfare of the persons receiving the services.

(d) Has not committed any crimes or acts constituting grounds for denial of licensure under Section 480.

(e) Has completed adequate instruction and training in the subject of alcoholism and other chemical substance dependency. This requirement applies only to applicants who matriculate on or after January 1, 1986.

4996.3. Each first application shall be accompanied with a fee of fifty dollars ($50), which shall be deposited by the board into the State Treasury to the credit of the Behavioral Science Examiners Fund.

4996.4. Notwithstanding Section 4996.3, an applicant who has failed the examination can reapply upon payment of a fee of ten dollars ($10) if he or she reapplies within the 12-month period subsequent to failure of the examination.

4996.5. The board shall issue a license to each applicant meeting the requirements of this article, which license, so long as the annual renewal fees have been paid, licenses the holder to engage in the practice of clinical social work as defined in Section 4996.9, entitles the holder to use the title of licensed clinical social worker, and authorizes the holder to hold himself or herself out as qualified to perform any of the functions delineated by this chapter. The form and content of the license shall be determined by the director in accordance with Section 164.

4996.6. A renewal fee in the sum of ten dollars ($10) shall be charged and collected annually by the board prior to the last day of March of each calendar year. The fees shall be deposited in the State Treasury to the credit of the Behavioral Science Examiners Fund. A five dollar ($5) delinquency fee shall be added to the renewal fee when the renewal fee is not received by the board prior to the last day of March of each calendar year. Any person who permits his or

her license to become delinquent may have it restored only upon the payment of all fees which he or she would have paid if the license had not become delinquent plus the payment of the delinquency fee.

4996.7. A license shall be displayed in the licensee's primary place of practice.

4996.8. The current annual renewal receipt shall be displayed near the license.

4996.9. The practice of clinical social work is defined as a service in which a special knowledge of social resources, human capabilities, and the part that unconscious motivation plays in determining behavior, is directed at helping people to achieve more adequate, satisfying, and productive social adjustments. The application of social work principles and methods includes, but is not restricted to, counseling and using applied psychotherapy of a nonmedical nature with individuals, families, or groups; providing information and referral services; providing or arranging for the provision of social services; explaining or interpreting the psychosocial aspects in the situations of individuals, families, or groups; helping communities to organize, to provide, or to improve social or health services; or doing research related to social work.

Psychotherapy, within the meaning of this chapter, is the use of psychosocial methods within a professional relationship, to assist the person or persons to achieve a better psychosocial adaptation, to acquire greater human realization of psychosocial potential and adaptation, to modify internal and external conditions which affect individuals, groups, or communities in respect to behavior, emotions, and thinking, in respect to their intrapersonal and interpersonal processes.

4996.10. The provisions of this article shall be construed only as provisions relating to the examination and licensing of clinical social workers.

4996.11. The board may suspend or revoke the license of any person who is guilty on the grounds set forth in Section 4992.3. The proceedings for the suspension or revocation of licenses under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all the powers granted in that chapter.

4996.12. Any person who violates 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 by both.

4996.13. Nothing in this article shall prevent qualified members of other professional groups from doing work of a psychosocial nature consistent with the standards and ethics of their respective professions. However, they shall not hold themselves out to the public by any title or description of services incorporating the words psychosocial, or clinical social worker, or that they shall not state or imply that they are licensed to practice clinical social work. These

qualified members of other professional groups include, but are not limited to, the following:

(a) A physician and surgeon certified pursuant to Chapter 5 (commencing with Section 2000).

(b) A psychologist licensed pursuant to Chapter 6.6 (commencing with Section 2900).

(c) Members of the State Bar of California.

(d) Marriage, family, and child counselors licensed pursuant to Chapter 13 (commencing with Section 4980).

(e) A priest, rabbi, or minister of the gospel of any religious denomination.

4996.14. Nothing in this chapter shall restrict or prevent activities of a psychosocial nature or the use of the official title of the position for which they are employed on the part of the following persons, if those persons are performing those activities as part of the duties for which they are employed or solely within the confines or under the jurisdiction of the organization in which they are employed. However, they shall not offer to render clinical social work services, as defined in Section 4996.9, to the public for a fee, monetary or otherwise, over and above the salary they receive for the performance of their official duties with the organization in which they are employed.

(a) Persons employed by the United States Department of Health and Human Services.

(b) Persons employed in family or children services agencies.

(c) Individuals employed in proprietary or nonproprietary private psychiatric clinics.

(d) Individuals employed in accredited colleges, junior colleges, or universities.

(e) Individuals employed in federal, state, county or municipal governmental organizations, or nonprofit organizations which are engaged in research, education, and services which services are defined by a board composed of community representatives and professionals.

(f) Persons utilizing hypnotic techniques by referral from persons licensed to practice medicine, dentistry, or psychology, or persons utilizing hypnotic techniques which offer avocational or vocational self-improvement and do not offer therapy for emotional or mental disorders.

4996.15. Nothing in this article shall restrict or prevent activities of a psychosocial nature on the part of persons employed by accredited academic institutions, public schools, government agencies, or nonprofit institutions engaged in the training of graduate students or social work interns pursuing the course of study leading to a master's degree in social work in an accredited college or university, or working in a recognized training program, provided that these activities and services constitute a part of a supervised course of study and that those persons are designated by such titles as social work interns, social work trainees, or other titles clearly

indicating the training status appropriate to their level of training. The term "social work intern," however, shall be reserved for persons enrolled in a master's or doctoral training program in social work in an accredited school or department of social work.

4996.16. Nothing in this article shall restrict a person or persons from another state, from offering clinical social work services, in this state, if the services are performed for no more than five days in any calendar month. If that person meets the qualifications and requirements stated in Section 4996.2 and resides in a state or territory of the United States, or foreign country, or province which does not grant a certification or license to clinical social workers, he or she may offer clinical social work services in this state for a total of not more than 30 days in any calendar year without being licensed under this chapter.

4996.17. A person other than a licensed clinical social worker may be employed as an apprentice clinical social worker by a licensed clinical social worker, a licensed psychologist, or a psychiatrist who is a licensed physician and surgeon, provided that:

(a) That person has a master's degree from an accredited school or department of social work.

(b) That person is at all times under the supervision of a licensed clinical social worker, a licensed psychologist, or a board certified psychiatrist who shall be responsible for insuring that the extent, kind, and quality of the clinical social work services he or she performs are consistent with competent practice and be responsible for his or her compliance with this chapter, and the regulations adopted pursuant to this chapter.

(c) That person does not provide clinical social work services to the public for a fee, monetary or otherwise, except as an employee of the professional person qualified under this section.

(d) The employing licensed clinical social worker, licensed psychologist, or psychiatrist has submitted to the board the name and professional qualifications of the apprentice clinical social worker. No licensed clinical social worker may employ more than three apprentice clinical social workers at any given time unless specifically authorized to do so by the board. No licensed clinical psychologist nor psychiatrist shall employ more than one apprentice clinical social worker at any given time.

(e) That person complies with any regulations the board may, from time to time, duly adopt relating to the fulfillment of requirements in continuing education.

4996.18. Nothing in this article shall prohibit the acts or practices of a licensed clinical social workers corporation duly certificated pursuant to the Moscone-Knox Professional Corporation Act, as contained in Part 4 (commencing with Section 13400) of Division 3 of Title 1 of the Corporations Code and Article 5 (commencing with Section 4998), when the corporation is in compliance with (a) the Moscone-Knox Professional Corporation Act; (b) Article 5 (commencing with Section 4998); and (c) all other statutes and all

rules and regulations now or hereafter enacted or adopted pertaining to the corporation and the conduct of its affairs.

Article 5. Licensed Clinical Social Workers Corporations

4998. "Licensed clinical social workers corporation" is a corporation which is registered with the Board of Behavioral Science Examiners and has a currently effective certificate of registration from the board pursuant to the Moscone-Knox Professional Corporation Act and this article. Subject to all applicable statutes, rules, and regulations, the licensed clinical social workers corporation is entitled to practice clinical social work. With respect to a licensed clinical social workers corporation, the governmental agency referred to in the Moscone-Knox Professional Corporation Act is the Board of Behavioral Science Examiners.

4998.1. An applicant for registration as a licensed clinical social workers corporation shall supply to the board all necessary and pertinent documents and information requested by the board concerning the applicant's plan of operation. The board may provide forms of application. The board shall issue a certificate of registration if the applicant satisfies the following requirements:

(a) The corporation is duly organized and existing pursuant to the General Corporation Law.

(b) Except as provided in Section 13403 of the Corporations Code, each officer, director, shareholder and each employee who will render professional services is a licensed person as defined in the Moscone-Knox Professional Corporation Act.

(c) From the application it appears that the affairs of the corporation will be conducted in compliance with the law and the rules and regulations of the board.

(d) The applicant pays a registration fee in such amount as the board may determine.

The application shall be signed and verified by an officer of the corporation.

4998.2. Each licensed clinical social workers corporation shall file with the board annually and at such other times as the board may require a report containing such information pertaining to qualification and compliance with the statutes, rules, and regulations of the board as the board may determine. The fee for filing a report shall be fixed by the board. All reports shall be signed and verified by an officer of the corporation.

4998.3. Notwithstanding Section 4996, the name of a licensed clinical social workers corporation and any name or names under which it may be rendering professional services shall contain and be restricted to the name or the last name of one or more of the present, prospective, or former shareholders and shall include the words "licensed clinical social workers corporation" or wording or abbreviations denoting corporate existence.

4998.4. Except as provided in Section 13403 of the Corporations

Code, each director, shareholder, and officer of a licensed clinical social workers corporation shall be a licensed person as defined in the Moscone-Knox Professional Corporation Act.

4998.5. The income of a licensed clinical social workers corporation attributable to professional services rendered while a shareholder is a disqualified person, as defined in the Moscone-Knox Professional Corporation Act, shall not in any manner accrue to the benefit of that shareholder or his or her shares in the licensed clinical social workers corporation.

4998.6. A licensed clinical social workers corporation shall not do or fail to do any act the doing of which or the failure to do which would constitute unprofessional conduct under any statute, rule, or regulation now or hereafter in effect. In the conduct of its practice, it shall observe and be bound by those statutes, rules, and regulations to the same extent as a person holding a license under Section 4996.1. The board shall have the same powers of suspension, revocation, and discipline against a licensed clinical social workers corporation as are now or hereafter authorized by Section 4996.11, or by any other similar statute against individual licensees. Proceedings against a licensed clinical social workers corporation 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 in that chapter.

4998.7. The board may formulate and enforce rules and regulations to carry out the purposes and objectives of this article, including rules and regulations requiring (a) that the articles of incorporation or bylaws of a licensed clinical social workers corporation shall include a provision whereby the capital stock of that corporation owned by a disqualified person, as defined in the Moscone-Knox Professional Corporation Act, or a deceased person, shall be sold to the corporation or to the remaining shareholders of that corporation within such time as the rules and regulations may provide, and (b) that a licensed clinical social workers corporation as a condition of obtaining a certificate pursuant to the Moscone-Knox Professional Corporation Act and this article shall provide adequate security by insurance or otherwise for claims against it by its patients arising out of the rendering of professional services.

SEC. 1.2. Section 4996.3 is added to the Business and Professions Code, to read:

4996.3. Each application for original licensure shall be accompanied by a fee of fifty dollars ($50), which shall be deposited by the board into the State Treasury to the credit of the Behavioral Science Examiners Fund.

Each application for original licensure received on or after July 1, 1986, shall be accompanied by a fee of seventy-five dollars ($75), which shall be deposited by the board into the State Treasury to the credit of the Behavioral Science Examiners Fund.

SEC. 1.4. Section 4996.4 is added to the Business and Professions

Code, to read:

4996.4. Notwithstanding the provisions of Section 4996.3, an applicant who has failed the examination may apply for reexamination upon payment of a reexamination fee of ten dollars ($10) if he or she applies within the 12-month period subsequent to failure of the examination. For persons applying for reexamination under the terms of this section on or after July 1, 1986, the reexamination fee shall be twenty dollars ($20) for each application. Persons failing to appear for reexamination, once having been scheduled, shall forfeit any reexamination fees paid.

SEC. 1.6. Section 4996.6 is added to the Business and Professions Code, to read:

4996.6. (a) A renewal fee in the sum of ten dollars ($10) shall be charged and collected annually by the board prior to the last day of March of each calendar year. The fees shall be deposited in the State Treasury to the credit of the Behavioral Science Examiners Fund.

On or after July 1, 1986, a renewal fee in the sum of forty dollars ($40) shall be charged and collected on a biennial basis by the board in accordance with the provisions of Section 152.6. The fees shall be deposited in the State Treasury to the credit of the Behavioral Science Examiners Fund.

(b) A five dollar ($5) delinquency fee shall be added to the renewal fee when the renewal fee is not received by the board prior to the last day of March of each calendar year.

For all licenses renewed on or after July 1, 1986, a delinquency fee in the amount of twenty-five dollars ($25) shall be added to the renewal of any biennial license which is not renewed on a timely basis.

Any person who permits his or her license to become delinquent may have it restored only upon the payment of all fees which he or she would have paid if the license had not become delinquent, plus the payment of any and all delinquency fees.

SEC. 2. Chapter 17 (commencing with Section 9000) of Division 3 of the Business and Professions Code is repealed.

SEC. 2.5. Sections 1.2, 1.4, and 1.6 of this bill shall only become operative if SB 687 and this bill are enacted and become effective on January 1, 1986, SB 687 amends Sections 9043, 9043.1, and 9048 of the Business and Professions Code and this bill adds Sections 4996.3, 4996.4, and 4996.6 to the Business and Professions Code, and this bill is enacted after SB 687, in which case Sections 4996.3, 4996.4, and 4996.6 of the Business and Professions Code, as proposed to be added by Section 1 of this bill, shall not become operative.

SEC. 3. No reimbursement is required by this act pursuant to 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 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 821

An act to add Section 6868.7 to the Business and Professions Code, relating to collection agencies.

[Approved by Governor September 19, 1985 Filed with Secretary of State September 19, 1985]

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

SECTION 1. Section 6868.7 is added to the Business and Professions Code, to read:

6868.7. Notwithstanding any other provision of law, the bureau shall not release the home address or home phone number of any licensee or registrant, other than to a governmental agency or law enforcement agency, unless the bureau has received a written request for that information. When a threat of physical harm is made or communicated to the bureau concerning a licensee or registrant, the bureau shall immediately notify the registrant or licensee of the threat and the name of the person making the threat.

All applications for registration, or licensure pursuant to this chapter shall contain a statement, printed in 18 point type, consisting of the following language:

"WARNING - READ BEFORE FILLING OUT THIS APPLICATION"

The address and phone number which you give may be either that of your employer, that of your business, or your home address and phone number. Pursuant to the California Public Records Act, whichever address and phone number you give, may be given to other governmental or law enforcement agencies, as well as given to anyone who requests it, including, but not limited to, debtors from whom you have attempted to collect a past due account."

CHAPTER 822

An act to add Section 65852.9 to the Government Code, relating to zoning of school property.

[Approved by Governor September 19, 1985 Filed with Secretary of State September 19, 1985]

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

SECTION 1. Section 65852.9 is added to the Government Code, to read:

65852.9. (a) The Legislature recognizes that unused school sites

represent a potentially major source of revenue for school districts and that current law reserves a percentage of unused school sites for park and recreational purposes. It is therefore the intent of the Legislature to ensure that unused school sites not leased or purchased for park or recreational purposes pursuant to Article 5 (commencing with Section 39390) of Chapter 3 of Part 20 of the Education Code can be developed to the same extent as is permitted on adjacent property. It is further the intent of the Legislature to expedite the process of zoning such property to avoid unnecessary costs and delays to the school district; however, school districts shall be charged for the administrative costs of such rezoning.

(b) If all of the public entities enumerated in Section 39394 of the Education Code decline a school district's offer to sell or lease school property pursuant to Article 5 (commencing with Section 39390) of Chapter 3 of Part 23 of the Education Code, the city or county having zoning jurisdiction over the property shall, upon request of the school district, zone the school site as defined in Section 39392 of the Education Code, consistent with the provisions of the applicable general and specific plans and compatible with the uses of property surrounding the school site. The school site shall be given the same land use control treatment as if it were privately owned. In no event shall the city or county, prior to the school district's sale or lease of the school site, rezone the site to open-space, park or recreation, or similar designation unless the adjacent property is so zoned, or if so requested or agreed to by the school district.

A rezoning effected pursuant to this section shall be subject to any applicable procedural requirements of state law or of the city or county.

A school district which requests a zoning change pursuant to this section shall, in the fiscal year in which the city or county incurs costs in effecting the requested zoning change, reimburse the city or county for the actual costs incurred by it.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution 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 823

An act to amend Sections 4533.1, 4535.2, and 7098 of, to amend and add Section 14838 of, and to add Article 4 (commencing with Section 14825) to Chapter 6 of Part 5.5 of Division 3 of Title 2 to, the Government Code, and to amend Sections 10391, 10392, 10393, 10398, and 10399 of the Public Contract Code, relating to public contracts.

[Approved by Governor September 19, 1985 Filed with Secretary of State September 19, 1985]

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

SECTION 1. Section 4533.1 of the Government Code is amended to read:

4533.1. Where a bidder complies with the provisions of Section 4533, or the worksite or worksites where at least 50 percent of the labor required to perform the contract is within commuting distance of a distressed area, the state shall award a 1-percent preference for bidders who shall agree to hire persons with high risk of unemployment equal to 5 to 9 percent of its work force during the period of contract performance; a 2-percent preference for bidders who shall agree to hire persons with high risk of unemployment equal to 10 to 14 percent of its work force during the period of contract performance; a 3-percent preference for bidders who shall agree to hire persons with high risk of unemployment equal to 15 to 19 percent of its work force during the period of contract performance; and a 4-percent preference for bidders who shall agree to hire persons with high risk of unemployment equal to 20 or more percent of its work force during the period of contract performance.

SEC. 2. Section 4535.2 of the Government Code is amended to read:

4535.2. (a) The maximum preference a bidder may be awarded pursuant to this chapter and any other provision of law shall be 15 percent; however, in no case shall the maximum preference cost exceed fifty thousand dollars ($50,000) for any bid. In those cases where the 15-percent cumulated preference cost would exceed the fifty thousand dollar ($50,000) maximum preference cost limit, the fifty thousand dollar ($50,000) maximum preference cost limit shall apply.

(b) Notwithstanding the provisions of this chapter, small business bidders qualified in accordance with the provisions of Section 14838 shall have precedence over nonsmall business bidders in that the application of any bidder preference for which nonsmall business bidders may be eligible, including the preference contained in this chapter, shall not result in the denial of the award to a small business bidder. This provision shall apply to those cases where the small business bidder is the lowest responsible bidder, as well as to those cases where the small business bidder is eligible for award as the result of application of the 5-percent small business bidder preference.

SEC. 3. Section 7098 of the Government Code is amended to read:

7098. (a) The maximum preference a bidder may be awarded pursuant to this chapter and any other provision of law shall be 15 percent; however, in no case shall the maximum preference cost exceed fifty thousand dollars ($50,000) for any bid. In those cases

where the 15-percent cumulated preference cost would exceed the fifty thousand dollar ($50,000) maximum preference cost limit, the fifty thousand dollar ($50,000) maximum preference cost limit shall apply.

(b) Notwithstanding the provisions of this chapter, small business bidders qualified in accordance with the provisions of Section 14838 shall have precedence over nonsmall business bidders in that the application of any bidder preference for which nonsmall business bidders may be eligible, including the preference contained in this chapter, shall not result in the denial of the award to a small business bidder. This provision shall apply to those cases where the small business bidder is the lowest responsible bidder, as well as to those cases where the small business bidder is eligible for award as the result of application of the 5-percent small business bidder preference.

SEC. 3.5. Article 4 (commencing with Section 14825) is added to Chapter 6 of Part 5.5 of Division 3 of Title 2 of the Government Code, to read:

Article 4. California State Contracts Register

14825. The Department of General Services shall publish, or shall cause to be published, the California State Contracts Register, describing therein contracts proposed by the state.

As used in this article, "contract" means an agreement entered into by a state agency for services, which term shall be construed to include contracts for construction or alteration of state-owned real property.

Provisions of this article shall not apply to contracts for entertainment by district agricultural associations or for their fair related events except that summaries of the types of fair related contracts shall be published in the California State Contracts Register at least twice each year.

14825.1. The California State Contracts Register shall be published not less than twice a month and shall include information deemed appropriate by the Department of General Services, and shall include all of the following:

(a) Contract identification number.

(b) A description of the contract to be performed.

(c) All deadlines for submitting bid proposals or other required steps in the contract process, including the location and estimated duration of the contract where appropriate.

(d) Any eligibility requirements and preferences.

(e) Department, name, and telephone number of the person or persons to contact for further bid and submittal information.

14826. In order to broaden subcontracting opportunities for small business, agencies shall maintain and provide, upon request to interested parties, the names and addresses of firms to whom requests for proposals or invitations to bid are to be issued in

connection with all contracts for one hundred thousand dollars ($100,000) or more.

14827. State agencies shall develop procedures for assuring that proposed contract opportunities are published in the California State Contracts Register as required by this article.

14827.1. No state agency shall award a contract unless notice thereof has first been published in the California State Contracts Register.

14827.2. Every state agency shall furnish to the Department of General Services the information required by Section 14825.1 in sufficient time for it to be published in the California State Contracts Register, so as to give potential bidders not less than 10 working days' notice prior to the contract bid opening date. Agencies shall not release invitations for bid or requests for proposals prior to publication in the California State Contracts Register.

14827.3. The Department of General Services may exempt a state agency from the requirement of advertising in the California State Contracts Register where the contract is necessary for the immediate preservation of life or state property, where the contract is with another state agency or local and where the Director of General Services determines that the state's best interest would be better served by an exemption. The Department of General Services may, likewise, exempt a class or classes of contracts, where it appears to be in the state's best interest to do so. The department will identify the exemptions and publish them prominently in each issue of the California State Contracts Register.

14828. All governmental contracting entities shall provide to the Department of General Services which shall maintain, for review by those desiring the information, all of the following:

(a) Names of contractors to whom specific contracts have been awarded.

(b) Contract procedures and requirements.

14829. The Department of General Services shall offer copies of the California State Contracts Register for sale, and the "price" thereof shall not exceed the amount necessary to pay all expenses incurred in its preparation and distribution.

14829.1. The Department of General Services may adopt rules and regulations consistent with the law for the purpose of carrying into effect this article.

14829.2. This article shall remain in effect 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, or unless the Director of General Services determines that as of December 1, 1987, the programs established by this article are self-supporting and notifies the Joint Legislative Budget Committee of that determination.

SEC. 4. Section 14838 of the Government Code is amended to read:

14838. In order to facilitate the participation of small business in

state procurement and in construction contracts, and in service contracts, under the Office of the State Architect or other state agencies which contract for the construction (including alteration, demolition, repair, or improvement) of state facilities, or the delivery of services, the directors of General Services and of such other agencies, each within their respective areas of responsibility, shall do all of the following:

(a) Establish goals, consistent with those established by the Office of Small and Minority Business, for the extent of participation of small businesses in state procurement and in construction contracts, and in service contracts.

(b) Provide for small business preference in construction or the procurement of goods or the delivery of services where responsibility and quality are equal. The preference to small business shall be 5 percent for the lowest responsible bidder meeting specifications. However, the small business preference shall not exceed fifty thousand dollars ($50,000) for any bid. In bids in which the state has reserved the right to make multiple awards, this fifty thousand dollar ($50,000) maximum preference cost shall be applied, to the extent possible, so as to maximize the dollar participation of small businesses in the contract award.

(c) Give special consideration to small businesses by both:

(1) Reducing the experience required.

(2) Reducing the level of inventory normally required.

(d) Give special assistance to small businesses in their preparation and submission of the information requested in Section 14310.

(e) Under the authorization granted in Section 14311, make awards, whenever feasible, to small business bidders for each project bid upon within their prequalification rating. This may be accomplished by dividing major projects into subprojects so as to allow a small business contractor to qualify to bid on these subprojects.

(f) Small business bidders qualified in accordance with the provisions of this chapter shall have precedence over nonsmall business bidders in that the application of any bidder preference for which nonsmall business bidders may be eligible under any other provision of law shall not result in the denial of the award to a small business bidder. This provision shall apply to those cases where the small business bidder is the lowest responsible bidder, as well as to those cases where the small business bidder is eligible for award as the result of application of the 5-percent small business bidder preference granted by subdivision (b).

(g) This section shall become inoperative on July 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 is repealed.

(h) This section shall remain in effect only until July 1, 1986, and as of that date is repealed.

SEC. 5. Section 14838 is added to the Government Code, to read:

14838. In order to facilitate the participation of small business in state procurement and in construction contracts under the Office of the State Architect or other state agencies which contract for the construction (including alteration, demolition, repair, or improvement) of state facilities, the directors of General Services and of such other agencies, each within their respective areas of responsibility, shall do all of the following:

(a) Establish goals, consistent with those established by the Office of Small and Minority Business, for the extent of participation of small businesses in state procurement and in construction contracts.

(b) Provide for small business preference in construction or the procurement of goods where responsibility and quality are equal. The preference to small business shall be 5 percent of the lowest responsible bidder meeting specifications. However, the small business preference shall not exceed fifty thousand dollars ($50,000) for any bid. In bids in which the state has reserved the right to make multiple awards, this fifty thousand dollar ($50,000) maximum preference cost shall be applied, to the extent possible, so as to maximize the dollar participation of small businesses in the contract award.

(c) Give special consideration to small businesses by both:

(1) Reducing the experience required.

(2) Reducing the level of inventory normally required.

(d) Give special assistance to small businesses in their preparation and submission of the information requested in Section 14310.

(e) Under the authorization granted in Section 14311, make awards, whenever feasible, to small business bidders for each project bid upon within their prequalification rating. This may be accomplished by dividing major projects into subprojects so as to allow a small business contractor to qualify to bid on these subprojects.

(f) Small business bidders qualified in accordance with the provisions of this chapter shall have precedence over nonsmall business bidders in that the application of any bidder preference for which nonsmall business bidders may be eligible under any other provision of law shall not result in the denial of the award to a small business bidder. This provision shall apply to those cases where the small business bidder is the lowest responsible bidder, as well as to those cases where the small business bidder is eligible for award as the result of application of the 5-percent small business bidder preference granted by subdivision (b).

(g) This section shall become operative on July 1, 1986.

SEC. 6. Section 10391 of the Public Contract Code is amended to read:

10391. For the purpose of this article, "recycled paper" means 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 a solid waste at a disposal site located in the State of California,

having completed its life cycle as a consumer item. "Secondary waste" means fragments of products or finished products of a manufacturing process located in the State of California, 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.

SEC. 7. Section 10392 of the Public Contract Code is amended to read:

10392. (a) 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.

(b) The department shall give preference to the suppliers of recycled paper products. This preference shall be 5 percent of the lowest bid or price quoted by suppliers offering nonrecycled paper products. However, the recycled paper preference shall not exceed fifty thousand dollars ($50,000) for any bid. In bids in which the state has reserved the right to make multiple awards, this fifty thousand dollars ($50,000) maximum preference cost shall be applied, to the extent possible, so as to maximize the dollar participation of recycled business in the contract award.

(c) Notwithstanding subdivision (b) of this section and subdivision (a) of Section 10398, the 5-percent recycled paper bidder preference shall not be granted if in so doing a small business qualified in accordance with Section 14838 of the Government Code would be deprived of the contract award. This provision shall apply regardless of whether the small business is the lowest responsible bidder or is eligible for contract award on the basis of application of the 5-percent small business preference.

(d) In those instances where a bidder is eligible for both the small business and recycled paper preferences, the small business preference only shall be applied. Further, for purposes of a contract award, the 5-percent recycled paper preference may not be cumulated with any other preference for which a bidder may be eligible.

(e) 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.

(f) The department may adopt rules and regulations to carry out the provisions of this article.

SEC. 8. Section 10393 of the Public Contract Code is amended to read:

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 10391 and shall specify the percentage of recycled paper content in the paper or paper products. The certification also shall attest to the fact that the postconsumer waste would have been disposed of at a solid waste disposal site located in California and that the secondary waste was the result of a manufacturing process located in California. 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.

SEC. 9. Section 10398 of the Public Contract Code is amended to read:

10398. (a) 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. This preference shall be 5 percent of the lowest bid or price quoted by suppliers offering unrecycled paper or paper products. However, the recycled paper preference shall not exceed fifty thousand dollars ($50,000) for any bid. In bids in which the state has reserved the right to make multiple awards, this fifty thousand dollar ($50,000) maximum preference cost shall be applied, to the extent possible, so as to maximize the dollar participation of firms offering recycled paper in the contract award.

(b) Notwithstanding subdivision (a) of this section and subdivision (b) of Section 10392, the 5-percent recycled paper bidder preference shall not be granted if in so doing a small business qualified in accordance with Section 14838 of the Government Code would be deprived of the contract award. This provision shall apply regardless of whether the small business is the lowest responsible bidder or is eligible for contract award on the basis of application of the 5-percent small business bidder preference.

(c) In those instances where a bidder is eligible for both the small

business and recycled paper preferences, the small business preference only shall be applied. Further, for the purposes of contract award, the 5-percent recycled paper preference may not be cumulated with any other preference for which a bidder may be eligible.

SEC. 10. Section 10399 of the Public Contract Code is amended to read:

10399. All local public agencies shall require the bidder to specify the percentage of recycled paper content in the paper or paper products, as well as requiring the bidder to specify that the postconsumer waste would have been disposed of at a solid waste disposal site in California and that the secondary waste resulted from a manufacturing process located in California. 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.

SEC. 11. Reimbursement to local agencies and school districts for costs mandated by the state pursuant to this act shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code and, if the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), shall be made from the State Mandates Claims Fund.

SEC. 12. 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 824

An act to add Section 14132.55 to the Welfare and Institutions Code, relating to the medical assistance program.

[Approved by Governor September 19, 1985 Filed with Secretary of State September 19, 1985]

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

SECTION 1. The Legislature finds and declares:

Rehabilitation programs including speech, language, and hearing services are needed for victims of head trauma, stroke, neurological diseases, and other conditions resulting in communication disorders.

The medical assistance program currently covers these services subject to certain limitations provided by licensed speech pathologists or licensed audiologists.

It is currently legal and appropriate for licensed speech pathologists or licensed audiologists to utilize, under general supervision, postgraduate personnel in the process of acquiring their license in approved settings as authorized by the Speech Pathology and Audiology Examining Committee of the Board of Medical Quality Assurance pursuant to the provisions of subdivision (d) of Section 2532.2 of the Business and Professions Code.

It is the intent of the Legislature to clarify and authorize the utilization of the above-mentioned personnel by licensed speech pathologists or licensed audiologists under the medical assistance program.

SEC. 2. Section 14132.55 is added to the Welfare and Institutions Code, to read:

14132.55. For the purposes of reimbursement under the Medi-Cal program, a speech pathologist or audiologist shall be licensed by the Speech Pathology and Audiology Examining Committee of the State Board of Medical Quality Assurance or similarly licensed by a comparable agency in the state in which he or she practices. Licensed speech pathologists or licensed audiologists are authorized to utilize and shall be reimbursed for the services of those personnel in the process of completing requirements under the provisions of subdivision (d) of Section 2532.2 of the Business and Professions Code.

CHAPTER 825

An act to amend Sections 45103 and 88003 of the Education Code, relating to education.

[Approved by Governor September 19, 1985 Filed with Secretary of State September 19, 1985]

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

SECTION 1. Section 45103 of the Education Code is amended to read:

45103. The governing board of any school district shall employ persons for positions not requiring certification qualifications. The governing board shall, except where Article 6 (commencing with Section 45240) of this chapter or Section 45318 applies, classify all such employees and positions. The employees and positions shall be known as the classified service. Substitute and short-term employees, employed and paid for less than 75 percent of a school year, shall not be a part of the classified service. Part-time playground positions, apprentices and professional experts employed on a temporary basis for a specific project, regardless of length of employment, shall not be a part of the classified service. Full-time students employed part time, and part-time students employed part time in any college

work-study program, or in a work experience education program conducted by a community college district pursuant to Article 7 (commencing with Section 51760) of Chapter 5 of Part 28, of Division 4, of this title and which is financed by state or federal funds, shall not be a part of the classified service.

"Substitute employee," as used in this section, means any person employed to replace any classified employee who is temporarily absent from duty. In addition, if the district is then engaged in a procedure to hire a permanent employee to fill a vacancy in any classified position, the governing board may fill the vacancy through the employment, for not more than 60 calendar days, of one or more substitute employees, except to the extent that a collective bargaining agreement then in effect provides for a different period of time.

"Short-term employee," as used in this section, means any person who is employed to perform a service for the district, upon the completion of which, the service required or similar services will not be extended or needed on a continuing basis.

"Seventy-five percent of a school year" means 195 working days, including holidays, sick leave, vacation and other leaves of absences, irrespective of number of hours worked per day.

Employment of either full-time or part-time students in any college work-study program, or in a work experience education program shall not result in the displacement of classified personnel or impair existing contracts for services.

This section shall apply only to districts not incorporating the merit system as outlined in Article 6 (commencing with Section 45240) of this chapter.

SEC. 2. Section 88003 of the Education Code is amended to read:

88003. The governing board of any community college district shall employ persons for positions not requiring certification qualifications. The governing board shall, except where Article 3 (commencing with Section 88060) of this chapter or Section 88137 applies, classify all such employees and positions. The employees and positions shall be known as the classified service. Substitute and short-term employees, employed and paid for less than 75 percent of a school year, shall not be a part of the classified service. Part-time playground positions, apprentices and professional experts employed on a temporary basis for a specific project, regardless of length of employment, shall not be a part of the classified service. Full-time students employed part time, and part-time students employed part time in any college work-study program, or in a work experience education program conducted by a community college district pursuant to Article 4 (commencing with Section 78240) of Chapter 2 of Part 48 of this division and which is financed by state or federal funds, shall not be a part of the classified service.

"Substitute employee," as used in this section, means any person employed to replace any classified employee who is temporarily absent from duty. In addition, if the district is then engaged in a

procedure to hire a permanent employee to fill a vacancy in any classified position, the governing board may fill the vacancy through the employment, for not more than 60 calendar days, of one or more substitute employees, except to the extent that a collective bargaining agreement then in effect provides for a different period of time.

"Short-term employee," as used in this section, means any person who is employed to perform a service for the district, upon the completion of which, the service required or similar services will not be extended or needed on a continuing basis.

"Seventy-five percent of a school year" means 195 working days, including holidays, sick leave, vacation and other leaves of absences, irrespective of number of hours worked per day.

Employment of either full-time or part-time students in any college work-study program, or in a work experience education program shall not result in the displacement of classified personnel or impair existing contracts for services.

This section shall apply only to districts not incorporating the merit system as outlined in Article 3 (commencing with Section 88060) of this chapter.

CHAPTER 826

An act to repeal and add Section 29853.5 of the Government Code, relating to public social services.

[Approved by Governor September 19, 1985 Filed with Secretary of State September 19, 1985.]

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

SECTION 1. Section 29853.5 of the Government Code is repealed.

SEC. 2. Section 29853.5 is added to the Government Code, to read:

29853.5. (a) To the extent permitted by federal law and notwithstanding Article 3 (commencing with Section 29850) of Chapter 5 of Division 3 of Title 3 of the Government Code, a public assistance warrant, which has been lost, stolen, destroyed, or lost in the mail, shall be replaced by the county. Prior to replacing the warrant the legal owner or custodian shall comply with either paragraph (1) or paragraph (2), whichever is applicable:

(1) Wait five working days, or a lesser period if permitted by the county, from the date that the warrant was mailed in cases where the warrant has been lost in the mail. After the waiting period the warrant shall be deemed to be lost and the legal owner or custodian shall be entitled to file an affidavit of the loss in the mail with the county. The affidavit shall contain information relative to the loss of

the warrant in the mail, including the number, date, amount, and name of the payee of the warrant. The county shall assist the legal owner or custodian of the warrant in completing the affidavit.

(2) If the warrant was not lost in the mail, an affidavit may be filed immediately with the county. The affidavit shall contain information relative to the loss, theft, or destruction of the warrant, including the number, date, amount, and the name of the payee of the warrant. The county shall assist the legal owner or the custodian of the warrant in the completion of the affidavit.

(b) When the affidavit has been signed by the legal owner or custodian of the warrant, the county shall issue a replacement warrant as soon as possible to ensure that the needs of the family continue to be met, but no later than five working days from the date that the affidavit has been signed and filed with the county.

(c) If the legal owner or custodian of the original warrant has moved from the county that issued the original warrant, and it has been lost, destroyed, stolen, or lost in the mail, the legal owner or the custodian of the warrant shall be entitled to file his or her affidavit for a replacement warrant with the county to which he or she has moved, and that county shall, within one working day, mail the affidavit to the county which issued the original warrant that an affidavit has been received. The county which issued the original warrant shall issue a replacement warrant immediately, but no later than five working days from the date that the county receives the affidavit that has been filed with the county to which the legal owner or custodian of the original warrant has moved.

(d) If a legal owner or custodian receives an original public assistance warrant subsequent to the receipt of a replacement warrant, the legal owner or custodian shall return the original warrant to the county.

(e) The department, in consultation with the County Welfare Directors Association, the County Auditors Association, and the Coalition of California Welfare Rights Organizations, shall develop a statewide intercounty lost warrant replacement affidavit, or revise the existing form, for the purpose of implementing this section.

SEC. 3. Reimbursement to local agencies and school districts for costs mandated by the state pursuant to this act shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code and, if the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), shall be made from the State Mandates Claims Fund.

CHAPTER 827

An act to add Section 5096.229 to the Public Resources Code, relating to fairs.

[Approved by Governor September 19, 1985. Filed with Secretary of State September 19, 1985]

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

SECTION 1. Section 5096.229 is added to the Public Resources Code, to read:

5096.229. (a) "District," as defined by subdivision (b) of Section 5096.228, includes a district agricultural association or a citrus fruit fair which is authorized to provide park, recreational, or open-space services, or a combination of those services, of a character commonly provided by a recreation and park district, and which provides those services for the general public on a year-round basis.

(b) Park, recreational, or open-space services, or a combination of those services, of a character commonly provided by a county parks and recreation department, which are provided by a county fair for the general public on a year-round basis, are eligible for a local assistance grant pursuant to subdivision (a) of Section 5096.231 as a county project.

(c) The Legislature hereby finds and declares that the provisions of this section are declaratory of and in accord with existing law.

CHAPTER 828

An act to amend Section 20113 of the Public Contract Code, relating to public contracts.

[Approved by Governor September 19, 1985. Filed with Secretary of State September 19, 1985.]

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

SECTION 1. Section 20113 of the Public Contract Code is amended to read:

20113. In an emergency when any repairs, alterations, work or improvement is necessary to permit the continuance of existing school classes, or to avoid danger to life or property, the board may by unanimous vote, with the approval of the county superintendent of schools, do either of the following:

(a) Make a contract in writing or otherwise on behalf of the district for the performance of labor and furnishing of materials or supplies for the purpose without advertising for or inviting bids.

(b) Notwithstanding Section 20114, authorize the use of day labor

or force account for the purpose.

CHAPTER 829

An act to amend Section 15432 of, and to add Section 15438.2 to, the Government Code, relating to health facilities, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 19, 1985. Filed with Secretary of State September 19, 1985]

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 the California Health Facilities Financing Authority Act.

(b) "Authority" means the California Health Facilities Financing 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 of a project financed under 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 those 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 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 of any project.

(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 the persons are admitted for a

24-hour stay or longer, except in the cases of county outpatient facilities, community clinics, and child day care facilities, as defined in paragraph (10) and includes all of 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 which 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.

(10) A child day care facility operated in conjunction with a health facility. A child day care facility is a facility as defined in Section 1596.750 of the Health and Safety Code. For purposes of this paragraph, "child" means a minor from birth to 18 years of age.

"Health facility" includes 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 15438.2 is added to the Government Code, to read:

15438.2. (a) When capital outlay funds are granted on property which is leased for a child day care facility, the term of the lease shall

be as long as, or greater than, the term of the loan.

(b) Child day care facilities shall be insurable under the California Health Facility Construction Loan Insurance Law.

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:

Due to the substantial need for additional child day care facilities, which has been documented, it is necessary for this act to take effect immediately to make financing for these facilities available at the earliest possible time.

CHAPTER 830

An act to amend Section 25191.7 of the Health and Safety Code, relating to hazardous waste.

[Approved by Governor September 19, 1985. Filed with Secretary of State September 19, 1985.]

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

SECTION 1. Section 25191.7 of the Health and Safety Code is amended to read:

25191.7. (a) Any person who provides information which materially contributes to the imposition of a civil penalty or criminal fine against any person for violating this chapter shall be paid a reward pursuant to regulations adopted by the department under subdivision (f). The reward shall be equal to 10 percent of the amount of the civil penalty or criminal fine collected by the department, district attorney, or city attorney. The department shall pay the award to a person who provides information which results in the imposition of a civil penalty and the county shall pay the award to a person who provides information which results in the imposition of a criminal fine. No reward paid pursuant to this subdivision shall exceed five thousand dollars ($5,000).

(b) No informant shall be eligible for a reward for a violation known to the department, unless the information materially contributes to the imposition of criminal or civil penalties for a violation specified in this section.

(c) If there is more than one informant for a single violation, the first notification received by the department shall be eligible for the reward. If the notifications are postmarked on the same day or telephoned notifications are received on the same day, the reward shall be divided equally among those informants.

(d) Public officers and employees of the United States, the State of California, or counties and cities in California, shall not be eligible for the reward pursuant to subdivision (a), unless reporting those

violations does not relate in any manner to their responsibilities as public officers or employees.

(e) An informant who is an employee of a business and who provides information that the business violated this chapter is not eligible for a reward if the employee intentionally or negligently caused the violation or if the employee's primary and regular responsibilities included investigating the violation, unless the business knowingly caused the violation.

(f) The department shall adopt regulations which establish procedures for the receipt and review of claims for payment of rewards. All decisions concerning the eligibility for an award and the materiality of the provided information shall be made pursuant to these regulations. In each case brought under subdivision (a), the department, the office of the city attorney, or the district attorney, whichever office brings the action, shall determine whether the information materially contributed to the imposition of civil or criminal penalties for violations of this chapter.

(g) The department shall continuously publicize the availability of the rewards pursuant to this section for persons who provide information pursuant to subdivision (a) or (b).

(h) Claims may be submitted only for those referrals made on or after January 1, 1982.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution 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 831

An act to amend Section 58801 of, and to add Section 58804 to, the Education Code, relating to education, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 19, 1985. Filed with Secretary of State September 19, 1985.]

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

SECTION 1. Section 58801 of the Education Code is amended to read:

58801. Any school district operating one or more high schools, or any consortium of school districts that operate one or more high schools, or any county superintendent of schools, or any county board of education, may submit a proposal to the Superintendent of Public Instruction to establish a school or schools with specialized curricula in high technology, performing arts, or other special curricular areas, for pupils in grades 9 through 12. School districts that submit

proposals as a consortium shall agree to accept pupils from each district in the consortium at the specialized school.

The Superintendent of Public Instruction shall, commencing with the 1984–85 fiscal year, allocate funds for startup costs of these specialized secondary schools or programs.

SEC. 2. Section 58804 is added to the Education Code, to read:

58804. From the funds appropriated by the Legislature for the purposes of Section 42238, the Superintendent of Public Instruction shall make allocations for the purposes of this chapter to county superintendents of schools, and county boards of education, operating approved specialized secondary schools, as follows:

(a) For the 1985–86 fiscal year, and for each fiscal year thereafter, in lieu of the funding calculation set forth in Section 42238, the revenue limit for each county superintendent of schools, or county board of education, operating one or more specialized secondary schools shall be calculated by multiplying the average daily attendance for the school or schools by the statewide average base revenue limit per unit of average daily attendance, for high school districts, as computed under paragraph (2) of subdivision (d) of Section 42238.

(b) The school district of residence of any pupil enrolled in a specialized secondary school operated by a county superintendent of schools or county board of education shall not include the attendance of that pupil in any computation of average daily attendance for purposes of Section 42238.

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 necessary funding may be provided for the operation of specialized secondary school programs for the 1985–86 fiscal year, it is necessary that this act take effect immediately.

CHAPTER 832

An act to add Article 3 (commencing with Section 447.30) to Part 1.95 of Division 1 of the Health and Safety Code, relating to health.

[Approved by Governor September 19, 1985. Filed with Secretary of State September 19, 1985.]

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

SECTION 1. Article 3 (commencing with Section 447.30) is added to Part 1.95 of Division 1 of the Health and Safety Code, to read:

Article 3. Health Promotion and Risk Reduction Allied Health Manpower Training Program

447.30. (a) The Legislature finds and declares that evidence exists to support the development of health promotion and health-risk reduction programs as an effective method of constraining the annual inflation rate for expenditures in the health industry. It is, therefore, the intent of the Legislature that a health manpower education program be developed to demonstrate the health promotion and health-risk reduction concept at educational institutions, with special emphasis on health manpower development in urban areas having a disproportionate share of disadvantaged and indigent persons.

(b) The Office of Statewide Health Planning and Development shall establish a contract program for funding allied health manpower training projects related to health promotion and health-risk reduction. The contract program shall provide funds to eligible institutions, as determined by the statewide office, for all of the following purposes:

(1) Teaching existing and future primary care providers about health-risk reduction through the institutions' basic curricula.

(2) Recruiting, remediating, and retaining minority allied health professionals, including, but not limited to, physicians' assistants, nurse practitioners, nurse midwives, public health nurses, health educators, dieticians, and nutritionists, especially those who provide in-home patient care.

(3) Increasing the supply of medical care in underserved urban areas and demonstrating methods which reduce cost through the use of allied health personnel.

(c) These funds shall be available to institutions which currently operate programs for training family practice physicians, other primary care physicians, and those health professionals identified in paragraph (2) of subdivision (b).

(d) The recipients of the funds shall provide, but shall not be limited to providing, orientation and training of primary care providers in teaching methods related to patient health education and health promotion, such as educating allied health professionals in the principles of self-care management as it relates to specific health problems in medically underserved communities.

(e) The office shall consult with organizations and experts in the field regarding the establishment of this program, and beginning with the 1986–87 fiscal year, this program shall be implemented to the extent funds are provided in the Budget Act. This program shall be designed to accommodate an appropriation request in the range of forty thousand dollars ($40,000) to eighty thousand dollars ($80,000) per year.

(f) The Director of the Office of Statewide Health Planning and Development may waive any of the requirements of subdivisions (b) and (c) if a potential contractor demonstrates an ability to meet the

goals and objectives of the program.

CHAPTER 833

An act to amend Sections 9133, 10502, 10504.1, 10520, 10523, 10525, 10526, 10532, 10541, 10542, 10543, 10544, 10545, 10546, 10547 of, to add Sections 10535 and 10536 to, to repeal Section 10506 of, and to repeal and add Section 10507 of, the Government Code, and to repeal Section 40.5 of Chapter 169 of the Statutes of 1981, relating to audits, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 19, 1985. Filed with Secretary of State September 19, 1985]

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

SECTION 1. Section 9133 of the Government Code is amended to read:

9133. (a) The Joint Rules Committee shall annually contract for an independent audit or audits of the expenditures of the Assembly Contingent Fund, the Senate Contingent Fund, the Contingent Funds of the Assembly and Senate, expenditures for legislative printing, and General Fund expenditures for reimbursement of Members of the Legislature pursuant to Sections 8902 and 8903. These audits shall be made in accordance with generally accepted auditing standards established by the American Institute of Certified Public Accountants.

(b) These audits shall each include, but need not be limited to, an evaluation of:

(1) The expenditures in the following categories:

(A) Out-of-state travel and living expense reimbursement and in-state travel and living expense reimbursement.

(B) Automotive expenses.

(C) Rent.

(D) Telephone.

(E) Postage.

(F) Printing.

(G) Office supplies.

(H) Newsletters.

(I) Per diem for attendance at legislative sessions.

(2) The accuracy of the annual fiscal year financial statements of the rules committees.

(c) These independent audits shall be completed, and reports thereon made to the respective houses of the Legislature, by November 30 of each year for the previous fiscal year ending June 30.

SEC. 1.5. Section 10502 of the Government Code is amended to

read:

10502. The committee shall consist of seven Members of the Senate and seven Members of the Assembly who shall be selected in the manner provided for in the Joint Rules of the Senate and Assembly. The committee shall elect its own chairman. Vacancies occurring in the membership of the committee between general sessions of the Legislature shall be filled in the manner provided for in the Joint Rules of the Senate and Assembly. A vacancy shall be deemed to exist as to any member of the committee whose term is expiring whenever such member is not reelected at the general election.

SEC. 2. Section 10504.1 of the Government Code is amended to read:

10504.1. At least one deputy auditor general shall be a certified public accountant.

SEC. 2.5. Section 10506 of the Government Code is repealed.

SEC. 3. Section 10507 of the Government Code is repealed.

SEC. 4. Section 10507 is added to the Government Code, to read:

10507. (a) There is hereby established in the State Treasury the Auditor General Fund. Notwithstanding Section 13340, the Auditor General Fund is continuously appropriated for the expenses of the Auditor General. There shall be appropriated annually in the Budget Act to the Auditor General Fund, from the General Fund, the amount necessary to reimburse the Auditor General Fund for the cost of audits to be performed. "Costs of audits" shall include all direct and indirect costs of conducting the audits and any other related expenses incurred by the Auditor General in fulfilling his or her statutory responsibilities.

(b) Upon certification by the Auditor General of estimated costs on a monthly basis, the Controller shall transfer the amount thus certified from the General Fund to the Auditor General Fund. The Controller shall thereafter issue warrants drawn against the Auditor General Fund upon receipt of claims certified by the Auditor General.

(c) This section shall become operative on July 1, 1985.

SEC. 5. Section 10520 of the Government Code is amended to read:

10520. The Auditor General shall only conduct audits and investigative audits approved by the Joint Legislative Audit Committee. Any provision of law directing the Auditor General to conduct an audit or investigative audit shall be deemed a request to the Joint Legislative Audit Committee to direct the Auditor General to undertake such an audit or investigative audit. Once an audit or investigative audit is approved, the Auditor General shall complete this audit or investigative audit in a timely manner and in accordance with the "Standards for Audit of Governmental Organizations, Programs. Activities, and Functions" issued by the Comptroller General of the United States.

SEC. 6. Section 10523 of the Government Code is amended to

read:

10523. The Auditor General may employ and fix the compensation, in accordance with Section (4) of Article VII of the Constitution, of such professional assistants and clerical and other employees as he deems necessary for the effective conduct of the work under his or her charge. The Auditor General and his or her employees shall be deemed to be legislative employees for purposes of Sections 20364, 11032, 11033, and 11041, and for purposes of the "Standards for Audit of Governmental Organizations, Programs, Activities, and Functions" issued by the Comptroller General of the United States.

SEC. 7. Section 10525 of the Government Code is amended to read:

10525. All books, papers, records, and correspondence of the Auditor General's office pertaining to its work are legislative records subject to the provisions of Article 3.5 (commencing with Section 9070) of Chapter 1.5 of Part 1 and shall be filed at any of the regularly maintained offices of the Auditor General, except:

(a) Papers or memoranda that are of no further use may be destroyed upon approval of the Joint Legislative Audit Committee.

(b) Personal papers and correspondence of any person receiving assistance from the Auditor General when such person has requested in writing that his papers and correspondence be kept private and confidential. Such papers and correspondence shall become legislative records whenever the Auditor General or the Legislature shall so order or the written request is withdrawn.

(c) Papers, correspondence, or memoranda pertaining to any audit or investigation not completed, when in the judgment of the Auditor General, disclosure of such papers, correspondence, or memoranda will impede such audit or investigation.

(d) Papers, correspondence, or memoranda pertaining to any audit or investigation which has been completed, which papers, correspondence, or memoranda are not used in support of any report resulting from the audit or investigation.

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

SEC. 8. Section 10526 of the Government Code is amended to read:

10526. It shall be a misdemeanor for the Auditor General or any employee or former employee of the office to divulge or make known in any manner not permitted by law, any particulars of any record, document, or information the disclosure of which is restricted by law. This prohibition shall also be applicable to any person or business entity which is contracting with or has contracted with the Auditor General and to the employees and former employees of such person or business entity or the employees of any state agency or public entity which has assisted the Auditor General in the course of any audit or investigative audit or which has been

furnished a draft copy of any report for comment or review.

SEC. 9. Section 10532 of the Government Code is amended to read:

10532. Notwithstanding any other provision of law, every contract involving the expenditure of state funds in excess of ten thousand dollars ($10,000) entered into by any state agency, board, commission, or department or by a public entity which receives state funds, including a city, county, city and county, or district, shall be subject to the examination and audit of the Auditor General for a period of three years after final payment under the contract. Every contract shall contain a provision stating that the contracting parties shall be subject to such examination and audit. It is the intent of the Legislature that the Regents of the University of California include in contracts involving the expenditure of state funds in excess of ten thousand dollars ($10,000) a provision stating that the contracting parties shall be subject to the examination and audit of the Auditor General for a period of three years after final payment under the contract. The examination and audit shall be confined to those matters connected with the performance of the contract, including, but not limited to, the costs of administering the contract.

SEC. 10. Section 10535 is added to the Government Code, to read:

10535. (a) In connection with any audit or investigative audit approved pursuant to Section 10520, the Auditor General, or his or her designee, may do any of the following:

(1) Administer oaths.

(2) Certify to all official acts.

(3) Issue subpoenas for the attendance of witnesses and the production of papers, books, accounts, or documents, or for the making of oral or written sworn statements, in any investigative interview conducted as part of an audit or investigative audit.

(b) Any subpoena issued under this section extends as process to all parts of the state and may be served by any person authorized to serve process of courts of record or by any person designated for that purpose by the Auditor General or his or her designee. The person serving this process may receive compensation as is allowed by the Auditor General or his or her designee, not to exceed the fees prescribed by law for similar service.

SEC. 11. Section 10536 is added to the Government Code, to read:

10536. (a) The superior court in the county in which any investigative interview is held under the direction of the Auditor General or his or her designee has jurisdiction to compel the attendance of witnesses, the making of oral or written sworn statements and the production of papers, books, accounts, and documents, as required by any subpoena issued by the Auditor General or his or her designee.

(b) If any witness refuses to attend or testify or produce any papers required by the subpoena, the Auditor General or his or her designee may petition the superior court in the county in which the hearing is pending for an order compelling the person to attend and

answer questions under penalty of perjury or produce the papers required by the subpoena before the person named in the subpoena. The petition shall set forth that:

(1) Due notice of the time and place of attendance of the person or the production of the papers has been given.

(2) The person has been subpoenaed in the manner prescribed in Section 10535.

(3) The person has failed and refused to attend or produce the papers required by subpoena before the Auditor General or his or her designee as named in the subpoena, or has refused to answer questions propounded to him or her in the course of the investigative interview under penalty of perjury.

(c) Upon the filing of the petition, the court shall enter an order directing the person to appear before the court at a specified time and place and then and there show cause why he or she has not attended, answered questions under penalty of perjury, or produced the papers as required. A copy of the order shall be served upon him or her. If it appears to the court that the subpoena was regularly issued by the Auditor General or his or her designee, the court shall enter an order that the person appear before the person named in the subpoena at the time and place fixed in the order and answer questions under penalty of perjury or produce the required papers. Upon failure to obey the order, the person shall be dealt with as for contempt of court.

SEC. 12. Section 10541 of the Government Code is amended to read:

10541. It is the intent of the Legislature that state employees and other persons should disclose, to the extent not expressly prohibited by law, improper governmental activities.

SEC. 13. Section 10542 of the Government Code is amended to read:

10542. For the purposes of this chapter:

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

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

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

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

SEC. 14. Section 10543 of the Government Code is amended to

read:

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

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

(c) Any employee who violates subdivision (a) may be liable in an action for civil damages brought against the employee by the offended party.

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

SEC. 15. Section 10544 of the Government Code is amended to read:

10544. The committee shall administer, through the Auditor General, the provisions of this article and shall have the Auditor General investigate and report those improper governmental activities which it deems appropriate. Nothing in this section shall preclude the committee from exercising any authority conferred under this article.

SEC. 16. Section 10545 of the Government Code is amended to read:

10545. The Auditor General, upon receiving specific information that any employee or state agency has engaged in an improper governmental activity, shall notify the committee which may require the Auditor General to conduct an investigative audit of the matter as the committee deems appropriate. In addition, the committee may, on its own initiative, direct the Auditor General to investigate incidences of improper governmental activities. The identity of the person providing the information which initiated the investigative audit shall not be disclosed without the written permission of the person providing the information unless the disclosure is to a law enforcement agency which is conducting a criminal investigation.

SEC. 17. Section 10546 of the Government Code is amended to read:

10546. The committee or the Auditor General may request the assistance of any state department, agency, or employee in conducting any investigative audit required by this article. No information obtained from the Auditor General by any department, agency, or employee as a result of the request or any information

obtained thereafter as a result of further investigation shall be divulged or made known to any person without the prior approval of the committee.

SEC. 18. Section 10547 of the Government Code is amended to read:

10547. (a) If the committee determines that there is reasonable cause to believe that an employee or state agency has engaged in any improper governmental activity, it shall report the nature and details of the activity to the head of the employing agency, or the appropriate appointing authority. If appropriate, the committee shall report this information to the Attorney General, the policy committees of the Senate and Assembly having jurisdiction over the subject involved, and to such other authority as the committee determines appropriate.

(b) Neither the Auditor General nor the committee shall have any enforcement power. In any case in which the committee or Auditor General submits a report of alleged improper activity to the head of the employing agency or appropriate appointing authority, that individual shall report to the committee or Auditor General with respect to any action taken by the individual regarding the activity, the first report being transmitted no later than 30 days after the date of the committee's report and monthly thereafter until final action has been taken.

(c) Every investigative audit shall be kept confidential, except that the committee may issue any report or release any findings resulting from an investigation conducted pursuant to this article that it deems necessary to serve the interests of the state.

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

SEC. 19. Section 40.5 of Chapter 169 of the Statutes of 1981 is repealed.

SEC. 20. No reimbursement is required by this act pursuant to 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 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. 21. This act is an urgency statute necessary for the immediate preservation of 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 costs of audits performed by the Auditor General are accurately accounted for and reported as soon as possible it is necessary that this act take effect immediately.

CHAPTER 834

An act to amend Section 26220 of the Government Code, relating to county government.

[Approved by Governor September 19, 1985. Filed with Secretary of State September 19, 1985]

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

SECTION 1. Section 26220 of the Government Code is amended to read:

26220. (a) The board of supervisors may by a four-fifths vote of its members assign for purposes of collection under such terms and conditions as the board may prescribe any or all delinquent bills, claims, and accounts, 30 days after the date upon which they are due and payable to the county, and any or all money judgments taken in the name of the county, to a collection agency duly licensed by the State of California.

(b) The board of supervisors may, by a four-fifths vote of its members, and with the approval of the tax collector, assign for purposes of collection under such terms and conditions as the board may prescribe, any or all delinquent unsecured taxes 90 days after the date upon which they are due and delinquent when, in the judgment of the tax collector, the remedy set forth in Section 2951 of the Revenue and Taxation Code will not be used by the tax collector.

(c) No assignment shall be made of obligations arising out of any delinquent assessments or taxes levied on the secured roll by the county or any other political subdivision of the state.

CHAPTER 835

An act to repeal and add Section 24008.5 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 19, 1985. Filed with Secretary of State September 19, 1985.]

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

SECTION 1. Section 24008.5 of the Vehicle Code is repealed.

SEC. 2. Section 24008.5 is added to the Vehicle Code, to read:

24008.5. (a) No person shall operate any motor vehicle with a frame height or body floor height greater than specified in subdivisions (b) and (c).

(b) The maximum frame height is as follows:

Vehicle Type	Frame Height

(1) Passenger vehicles, except housecars	23 inches
(2) All other motor vehicles, including housecars, as follows:	
Up to 4,500 pounds GVWR	27 inches
4,501 to 7,500 pounds GVWR	30 inches
7,501 to 10,000 pounds GVWR	31 inches

(c) The lowest portion of the body floor shall not be more than four inches above the top of the frame.

(d) The following definitions govern the construction of this section:

(1) "Frame" means the main longitudinal structural members of the chassis of the vehicle or, for vehicles with unitized body construction, the lowest main longitudinal structural members of the body of the vehicle.

(2) "Frame height" means the vertical distance between the ground and the lowest point on the frame, measured when the vehicle is unladen on a level surface at the lowest point on the frame midway between the front axle and the second axle on the vehicle.

(3) "GVWR" means the manufacturer's gross vehicle weight rating, as defined in Section 390, whether or not the vehicle is modified by use of parts not originally installed by the manufacturer.

SEC. 3. No reimbursement is required by this act pursuant to 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 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 836

An act to amend Sections 65971, 65973, and 65976 of the Government Code, relating to school facilities.

[Approved by Governor September 19, 1985. Filed with Secretary of State September 19, 1985.]

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

SECTION 1. Section 65971 of the Government Code is amended to read:

65971. If the governing body of a school district which operates an elementary or high school makes a finding supported by clear and convincing evidence that: (a) conditions of overcrowding exist in one or more attendance areas within the district which will impair the normal functioning of educational programs including the reason for those conditions existing; and (b) that all reasonable methods of mitigating conditions of overcrowding have been evaluated and no

feasible method for reducing those conditions exist, the governing body of the school district shall notify the city council or board of supervisors of the city or county within which the school district lies. The notice of findings sent to the city or county shall specify the mitigation measures considered by the school district. The notice of findings shall include a completed application to the Office of Local Assistance for preliminary determination of eligibility under the Leroy F. Green State School Building Lease-Purchase Law of 1976 (Chapter 22 (commencing with Section 17700) of Part 10 of Division 1 of Title 1 of the Education Code). The city council or board of supervisors shall take no action on the school district's notice of findings until the notice has been available to the public for at least 60 days. If the city council or board of supervisors concurs in those findings the provisions of Section 65972 shall be applicable to actions taken on residential development by the council or board.

SEC. 2. Section 65973 of the Government Code is amended to read:

65973. As used in this chapter:

(a) "Conditions of overcrowding" means that the total enrollment of a school, including enrollment from proposed development, exceeds the capacity of the school as determined by the governing body of the district.

(b) "Reasonable methods for mitigating conditions of overcrowding" shall include, but are not limited to, agreements between a builder and the affected school district whereby temporary-use buildings will be leased to the school district or temporary-use buildings owned by the school district will be used, and agreements between the affected school districts and any other school district whereby surplus or underutilized school facilities of the latter may be leased or purchased by the former.

(c) "Residential development" means a project containing residential dwellings, including mobilehomes, of one or more units or a subdivision of land for the purpose of constructing one or more residential dwelling units.

SEC. 3. Section 65976 of the Government Code is amended to read:

65976. As a part of the notice required by Section 65971, or in any event prior to the decision by the city or county to require the dedication of land or the payment of fees, or both, or to increase the amount of dedication or fees, the governing body of the school district shall submit a schedule specifying how it will use the land or fees, or both, to solve the conditions of overcrowding. The schedule shall include the school sites to be used, the classroom facilities to be made available, and the times when the facilities will be available. In the event the governing body of the school district cannot meet the schedule, it shall submit modifications to the city council or board of supervisors and the reasons for the modifications.

SEC. 4. Reimbursement to local agencies and school districts for costs mandated by the state pursuant to this act shall be made

pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code and, if the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), shall be made from the State Mandates Claims Fund.

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 837

An act to amend Sections 33050, 33051, and 33052 of, and to add Section 33051.5 to, the Education Code, relating to education.

[Approved by Governor September 19, 1985. Filed with Secretary of State September 19, 1985.]

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) Article 1 (commencing with Section 15700) and Article 2 (commencing with Section 15780) of Chapter 6 of Part 10.

(2) Chapter 8 (commencing with Section 16000) and Chapter 9 (commencing with Section 16400) of Part 10.

(3) Chapter 22 (commencing with Section 17700), Chapter 23 (commencing with Section 17760), and Chapter 25 (commencing with Section 17785) of Part 10.

(4) 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; Sections 39360.5 and 39363 and subdivision (a) of Section 39363.5; and Sections 39618 to 39621, inclusive.

(6) Sections 52163, 52165, 52166, and 52178.

(7) 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 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 Article 4 (commencing with Section 52870) of Chapter 12 of Part 28.

(d) Any request for a waiver submitted by the governing board of a school district or a county board of education pursuant to subdivision (a) shall include a written statement as to (1) whether the exclusive representative of employees, if any, as provided in Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, participated in the development of the waiver and (2) the exclusive representative's position regarding the waiver.

(e) Any request for a waiver submitted pursuant to subdivision (a) relating to a regional occupational center or program established pursuant to Article 1 (commencing with Section 52300) of Chapter 9 of Part 28, which is operated by a joint powers entity established pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code, shall be submitted as a joint waiver request for each participating school district and shall meet both of the following conditions:

(1) Each joint waiver request shall comply with all of the requirements of this article.

(2) The submission of a joint waiver request shall be approved by a unanimous vote of the governing board of the joint powers agency.

(f) The governing board of any school district requesting a waiver under this section of any provision of Article 5 (commencing with Section 39390) of Chapter 3 of Part 23 shall provide written notice of any public hearing it conducted pursuant to subdivision (a), at least 30 days prior to the hearing, to each public agency identified under Section 39394.

SEC. 2. Section 33051 of the Education Code is amended to read:

33051. (a) The State Board of Education shall approve any and all requests for waivers except in those cases where the board specifically finds any of the following:

(1) The educational needs of the pupils are not adequately addressed.

(2) The waiver affects a program that requires the existence of a school site council and the school site council did not approve the request.

(3) The appropriate councils or advisory committees, including bilingual advisory committees, did not have an adequate opportunity to review the request and the request did not include a written summary of any objections to the request by the councils or advisory committees.

(4) Pupil or school personnel protections are jeopardized.

(5) Guarantees of parental involvement are jeopardized.

(6) The request would substantially increase state costs.

(7) The exclusive representative of employees, if any, as provided in Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, was not a participant in the development of the waiver.

(b) The State Board of Education shall not approve any request for waiver of any provision of Article 5 (commencing with Section 39390) of Chapter 3 of Part 23 unless the school district seeking the waiver demonstrates all of the following:

(1) The school district provided the written notice required under subdivision (f) of Section 33050.

(2) The school district, after making a good-faith effort to that purpose, was unable to reach agreement with any public agency identified under Section 39394 that seeks to acquire the site under that article on terms and conditions that are consistent with the requirements of the purchase plan adopted by the agency under Section 39397.5 and would enable the district to meet its reasonable financial goals.

(3) The detriment to the school district's ability to financially meet the educational needs of the community resulting from the disposition of the school site pursuant to the sale price or lease rate limitations set forth in Section 39396, as compared to the fair market value of the site, outweighs the need for the use of the site for outdoor recreational and open-space purposes as established by a finding made under Section 39397.

(c) A waiver shall be approved or renewed by the State Board of Education prior to its implementation for the period of time requested by the governing board of a district, but not to exceed two years.

SEC. 3. Section 33051.5 is added to the Education Code, to read:

33051.5. Not less than 30 days prior to any public hearing it conducts pursuant to Section 33050 concerning a request to waive any provision of Article 5 (commencing with Section 39390) of Chapter 3 of Part 23, the State Board of Education shall provide written notice of the hearing to each public agency to which an offer of sale or lease must be made under Section 39394.

SEC. 4. Section 33052 of the Education Code is amended to read:

33052. (a) If formal action by the State Board of Education on a waiver request is not taken later than the second regular meeting of the board following receipt of a complete and documented waiver request by the State Department of Education, the waiver shall be deemed approved for one year, commencing the first day of the following month.

(b) Notwithstanding subdivision (a), no provision of Article 5 (commencing with Section 39390) of Chapter 3 of Part 23 shall be waived except by formal action of the State Board of Education.

SEC. 5. Reimbursement to local agencies and school districts for costs mandated by the state pursuant to this act shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code and, if the statewide cost of the

claim for reimbursement does not exceed five hundred thousand dollars ($500,000), shall be made from the State Mandates Claims Fund.

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.

CHAPTER 838

An act to amend Sections 7202, 7202.5, 7202.6, 7203, 7261, and 7262 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 19, 1985. Filed with Secretary of State September 19, 1985]

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

SECTION 1. Section 7202 of the Revenue and Taxation Code, as amended by Section 1 of Chapter 17 of the Statutes of 1984, is amended to read:

7202. (a) The sales tax portion of any sales and use tax ordinance adopted under this part shall be imposed for the privilege of selling tangible personal property at retail, and shall include provisions in substance as follows:

(1) A provision imposing a tax for the privilege of selling tangible personal property at retail upon every retailer in the county at the rate of 1¼ percent of the gross receipts of the retailer from the sale of all tangible personal property sold by that person at retail in the county.

(2) Provisions identical to those contained in Part 1 (commencing with Section 6001) of this division, insofar as they relate to sales taxes, except that the name of the county as the taxing agency shall be substituted for that of the state and that an additional seller's permit shall not be required if one has been or is issued to the seller under Section 6067 of this code.

(3) A provision that all amendments subsequent to the effective date of the enactment of Part 1 (commencing with Section 6001) of this division relating to sales tax and not inconsistent with this part, shall automatically become a part of the sales tax ordinance of the county.

(4) A provision that the county shall contract prior to the effective date of the county sales and use tax ordinances with the State Board of Equalization to perform all functions incident to the administration or operation of the sales and use tax ordinance of the county. Any such contract shall contain a provision that the county agrees to comply with the provisions of Article 11 (commencing with Section 29530) of Chapter 2 of Division 3 of Title 3 of the

Government Code.

(5) A provision that such ordinance may be made inoperative not less than 60 days, but not earlier than the first day of the calendar quarter, following the county's lack of compliance with Article 11 (commencing with Section 29530) of Chapter 2 of Division 3 of Title 3 of the Government Code or following an increase by any city within the county of the rate of its sales or use tax above the rate in effect at the time the county ordinance was enacted.

(6) A provision that the amount subject to tax shall not include the amount of any sales tax or use tax imposed by the State of California upon a retailer or consumer.

(7) A provision that there is exempted from the sales tax 80 percent of the gross receipts from the sale of tangible personal property to operators of aircraft to be used or consumed principally outside the county in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this state, the United States, or any foreign government.

(8) A provision that any person subject to a sales and use tax under the county ordinance shall be entitled to credit against the payment of taxes due under that ordinance the amount of sales and use tax due to any city in the county; provided, that the city sales and use tax is levied under an ordinance including provisions in substance as follows:

(A) A provision imposing a tax for the privilege of selling tangible personal property at retail upon every retailer in the city at the rate of 1 percent or less of the gross receipts of the retailer from the sale of all tangible personal property sold by that person at retail in the city and a use tax of 1 percent or less of purchase price upon the storage, use or other consumption of tangible personal property purchased from a retailer for storage, use or consumption in the city.

(B) Provisions identical to those contained in Part 1 (commencing with Section 6001) of this division, insofar as they relate to sales and use taxes, except that the name of the city as the taxing agency shall be substituted for that of the state (but the name of the city shall not be substituted for the word "state" in the phrase "retailer engaged in business in this state" in Section 6203 nor in the definition of that phrase in Section 6203) and that an additional seller's permit shall not be required if one has been or is issued to the seller under Section 6067 of this code.

(C) A provision that all amendments subsequent to the effective date of the enactment of Part 1 (commencing with Section 6001) of this division relating to sales and use tax and not inconsistent with this part, shall automatically become a part of the sales and use tax ordinance of the city.

(D) A provision that the city shall contract prior to the effective date of the city sales and use tax ordinance with the State Board of Equalization to perform all functions incident to the administration or operation of the sales and use tax ordinance of the city which shall

continue in effect so long as the county within which the city is located has an operative sales and use tax ordinance enacted pursuant to this part.

(E) A provision that the storage, use or other consumption of tangible personal property, the gross receipts from the sale of which has been subject to sales tax under a sales and use tax ordinance enacted in accordance with this part by any city and county, county, or city in this state, shall be exempt from the tax due under this ordinance.

(F) A provision that the amount subject to tax shall not include the amount of any sales tax or use tax imposed by the State of California upon a retailer or consumer.

(G) A provision that there are exempted from the computation of the amount of the sales tax the gross receipts from the sale of tangible personal property to operators of aircraft to be used or consumed principally outside the city in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this state, the United States, or any foreign government.

(H) A provision that, in addition to the exemptions provided in Sections 6366 and 6366.1 of this code, the storage, use, or other consumption of tangible personal property purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this state, the United States, or any foreign government is exempt from the use tax.

(b) This section shall cease to be operative on March 1, 1984, and thereafter this section shall become operative on January 1, 1988.

SEC. 2. Section 7202 of the Revenue and Taxation Code, as added by Section 2 of Chapter 17 of the Statutes of 1984, is amended to read:

7202. (a) The sales tax portion of any sales and use tax ordinance adopted under this part shall be imposed for the privilege of selling tangible personal property at retail, and shall include provisions in substance as follows:

(1) A provision imposing a tax for the privilege of selling tangible personal property at retail upon every retailer in the county at the rate of 1¼ percent of the gross receipts of the retailer from the sale of all tangible personal property sold by that person at retail in the county.

(2) Provisions identical to those contained in Part 1 (commencing with Section 6001) of this division, insofar as they relate to sales taxes, except that the name of the county as the taxing agency shall be substituted for that of the state and that an additional seller's permit shall not be required if one has been or is issued to the seller under Section 6067 of this code.

(3) A provision that all amendments subsequent to the effective date of the enactment of Part 1 (commencing with Section 6001) of

this division relating to sales tax and not inconsistent with this part, shall automatically become a part of the sales tax ordinance of the county.

(4) A provision that the county shall contract prior to the effective date of the county sales and use tax ordinances with the State Board of Equalization to perform all functions incident to the administration or operation of the sales and use tax ordinance of the county. Any such contract shall contain a provision that the county agrees to comply with the provisions of Article 11 (commencing with Section 29530) of Chapter 2 of Division 3 of Title 3 of the Government Code.

(5) A provision that such ordinance may be made inoperative not less than 60 days, but not earlier than the first day of the calendar quarter, following the county's lack of compliance with Article 11 (commencing with Section 29530) of Chapter 2 of Division 3 of Title 3 of the Government Code or following an increase by any city within the county of the rate of its sales or use tax above the rate in effect at the time the county ordinance was enacted.

(6) A provision that the amount subject to tax shall not include the amount of any sales tax or use tax imposed by the State of California upon a retailer or consumer.

(7) A provision that there is exempted from the sales tax 80 percent of the gross receipts from the sale of tangible personal property to operators of waterborne vessels to be used or consumed principally outside the county in which the sale is made and directly and exclusively in the carriage of persons or property in such vessels for commercial purposes.

(8) A provision that there is exempted from the sales tax 80 percent of the gross receipts from the sale of tangible personal property to operators of aircraft to be used or consumed principally outside the county in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this state, the United States, or any foreign government.

(9) A provision that any person subject to a sales and use tax under the county ordinance shall be entitled to credit against the payment of taxes due under that ordinance the amount of sales and use tax due to any city in the county; provided, that the city sales and use tax is levied under an ordinance including provisions in substance as follows:

(A) A provision imposing a tax for the privilege of selling tangible personal property at retail upon every retailer in the city at the rate of 1 percent or less of the gross receipts of the retailer from the sale of all tangible personal property sold by that person at retail in the city and a use tax of 1 percent or less of purchase price upon the storage, use or other consumption of tangible personal property purchased from a retailer for storage, use or consumption in the city.

(B) Provisions identical to those contained in Part 1 (commencing with Section 6001) of this division, insofar as they

relate to sales and use taxes, except that the name of the city as the taxing agency shall be substituted for that of the state (but the name of the city shall not be substituted for the word "state" in the phrase "retailer engaged in business in this state" in Section 6203 nor in the definition of that phrase in Section 6203) and that an additional seller's permit shall not be required if one has been or is issued to the seller under Section 6067 of this code.

(C) A provision that all amendments subsequent to the effective date of the enactment of Part 1 (commencing with Section 6001) of this division relating to sales and use tax and not inconsistent with this part, shall automatically become a part of the sales and use tax ordinance of the city.

(D) A provision that the city shall contract prior to the effective date of the city sales and use tax ordinance with the State Board of Equalization to perform all functions incident to the administration or operation of the sales and use tax ordinance of the city which shall continue in effect so long as the county within which the city is located has an operative sales and use tax ordinance enacted pursuant to this part.

(E) A provision that the storage, use or other consumption of tangible personal property, the gross receipts from the sale of which has been subject to sales tax under a sales and use tax ordinance enacted in accordance with this part by any city and county, county, or city in this state, shall be exempt from the tax due under this ordinance.

(F) A provision that the amount subject to tax shall not include the amount of any sales tax or use tax imposed by the State of California upon a retailer or consumer.

(G) A provision that there are exempted from the computation of the amount of the sales tax the gross receipts from the sale of tangible personal property to operators of waterborne vessels to be used or consumed principally outside the city in which the sale is made and directly and exclusively in the carriage of persons or property in such vessels for commercial purposes.

(H) A provision that the storage, use, or other consumption of tangible personal property purchased by operators of waterborne vessels and used or consumed by such operators directly and exclusively in the carriage of persons or property in such vessels for commercial purposes is exempted from the use tax.

(I) A provision that there are exempted from the computation of the amount of the sales tax the gross receipts from the sale of tangible personal property to operators of aircraft to be used or consumed principally outside the city in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this state, the United States, or any foreign government.

(J) A provision that, in addition to the exemptions provided in Sections 6366 and 6366.1 of this code, the storage, use, or other consumption of tangible personal property purchased by operators

of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this state, the United States, or any foreign government is exempt from the use tax.

(b) 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. 3. Section 7202.5 of the Revenue and Taxation Code, as amended by Section 3 of Chapter 17 of the Statutes of 1984, is amended to read:

7202.5. (a) In addition to the provisions set forth in subparagraphs (A) to (H), inclusive, of paragraph (8) of subdivision (a) of Section 7202, a city sales and use tax ordinance may provide that any person subject to a sales and use tax under the city's ordinance shall be entitled to credit against the payment of taxes due under that ordinance the amount of sales and use taxes due to the redevelopment agency of such city pursuant to Section 7202.6.

(b) This section shall cease to be operative on March 1, 1984, and thereafter this section shall become operative on January 1, 1988.

SEC. 4. Section 7202.5 of the Revenue and Taxation Code, as added by Section 4 of Chapter 17 of the Statutes of 1984, is amended to read:

7202.5. (a) In addition to the provisions set forth in subparagraphs (A) to (J), inclusive, of paragraph (9) of subdivision (a) of Section 7202, a city sales and use tax ordinance may provide that any person subject to a sales and use tax under the city's ordinance shall be entitled to credit against the payment of taxes due under that ordinance the amount of sales and use taxes due to the redevelopment agency of such city pursuant to Section 7202.6.

(b) 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. 5. Section 7202.6 of the Revenue and Taxation Code, as amended by Section 5 of Chapter 17 of the Statutes of 1984, is amended to read:

7202.6. (a) The redevelopment agency of any city which has adopted a sales and use tax ordinance pursuant to this part and containing the provision described in Section 7202.5 may adopt a sales and use tax ordinance in accordance with the provisions of this part, provided the redevelopment agency sales and use tax is levied under an ordinance including the following provisions:

(1) A provision imposing a tax for the privilege of selling tangible personal property at retail upon every retailer in the project area at the rate of 1 percent or less of the gross receipts of the retailer from the sale of all tangible personal property sold by that person at retail in the project area, and a use tax of 1 percent or less of purchase price upon the storage, use or other consumption of tangible personal

property purchased from a retailer for storage, use or consumption in the project area. The rate of tax imposed by the ordinance shall not exceed the rate of tax imposed by the city ordinance.

(2) Provisions identical to those contained in Part 1 (commencing with Section 6001), insofar as they relate to sales and use taxes, except that the name of the redevelopment agency as the taxing agency shall be substituted for that of the state (but the name of the redevelopment agency shall not be substituted for the word "state" in the phrase "retailer engaged in business in this state" in Section 6203 nor in the definition of that phrase in Section 6203) and that an additional seller's permit shall not be required if one has been or is issued to the seller under Section 6067.

(3) A provision that all amendments subsequent to the effective date of the enactment of Part 1 (commencing with Section 6001) relating to sales and use tax and not inconsistent with this part, shall automatically become a part of the sales and use tax ordinance of the agency.

(4) A provision that the agency shall contract prior to the operative date of the agency sales and use tax ordinance with the State Board of Equalization to perform all functions incident to the administration or operation of the sales and use tax ordinance of the agency which shall continue in effect so long as the county and the city within which the agency is located have operative sales and use tax ordinances enacted pursuant to this part.

(5) A provision that the storage, use or other consumption of tangible personal property, the gross receipts from the sale of which has been subject to sales tax under a sales and use tax ordinance enacted in accordance with this part by any city and county, county, city or redevelopment agency in this state, shall be exempt from the tax due under this ordinance.

(6) A provision that the amount subject to tax shall not include the amount of any sales tax or use tax imposed by the State of California upon a retailer or consumer.

(7) A provision that there are exempted from the computation of the amount of the sales tax the gross receipts from the sale of tangible personal property to operators of aircraft to be used or consumed principally outside the project area and the city in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this state, the United States, or any foreign government.

(8) A provision that, in addition to the exemptions provided in Sections 6366 and 6366.1, the storage, use, or other consumption of tangible personal property purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this state, the United States, or any foreign government is exempt from the use tax.

(b) The ordinance shall contain an enacting clause which states as

follows: "The redevelopment agency of the City of _____ does ordain as follows:" Such ordinance shall be signed by the chairman of the agency and attested by the clerk or secretary of the agency, and shall take effect immediately upon its final passage, provided, however, that the ordinance shall become operative on the first day of the first calendar quarter commencing more than 180 days after adoption of the ordinance. In all other respects, such ordinance shall be introduced and passed, and notice given by publication, in the manner provided by law for general law cities.

(c) This section shall cease to be operative on March 1, 1984, and thereafter this section shall become operative on January 1, 1988.

SEC. 6. Section 7202.6 of the Revenue and Taxation Code, as added by Section 6 of Chapter 17 of the Statutes of 1984, is amended to read:

7202.6. (a) The redevelopment agency of any city which has adopted a sales and use tax ordinance pursuant to this part and containing the provision described in Section 7202.5 may adopt a sales and use tax ordinance in accordance with the provisions of this part, provided the redevelopment agency sales and use tax is levied under an ordinance including all of the following provisions:

(1) A provision imposing a tax for the privilege of selling tangible personal property at retail upon every retailer in the project area at the rate of 1 percent or less of the gross receipts of the retailer from the sale of all tangible personal property sold by that person at retail in the project area, and a use tax of 1 percent or less of purchase price upon the storage, use or other consumption of tangible personal property purchased from a retailer for storage, use or consumption in the project area. The rate of tax imposed by the ordinance shall not exceed the rate of tax imposed by the city ordinance.

(2) Provisions identical to those contained in Part 1 (commencing with Section 6001), insofar as they relate to sales and use taxes, except that the name of the redevelopment agency as the taxing agency shall be substituted for that of the state (but the name of the redevelopment agency shall not be substituted for the word "state" in the phrase "retailer engaged in business in this state" in Section 6203 nor in the definition of that phrase in Section 6203) and that an additional seller's permit shall not be required if one has been or is issued to the seller under Section 6067.

(3) A provision that all amendments subsequent to the effective date of the enactment of Part 1 (commencing with Section 6001) relating to sales and use tax and not inconsistent with this part, shall automatically become a part of the sales and use tax ordinance of the agency.

(4) A provision that the agency shall contract prior to the operative date of the agency sales and use tax ordinance with the State Board of Equalization to perform all functions incident to the administration or operation of the sales and use tax ordinance of the agency which shall continue in effect so long as the county and the city within which the agency is located have operative sales and use

tax ordinances enacted pursuant to this part.

(5) A provision that the storage, use or other consumption of tangible personal property, the gross receipts from the sale of which has been subject to sales tax under a sales and use tax ordinance enacted in accordance with this part by any city and county, county, city or redevelopment agency in this state, shall be exempt from the tax due under this ordinance.

(6) A provision that the amount subject to tax shall not include the amount of any sales tax or use tax imposed by the State of California upon a retailer or consumer.

(7) A provision that there are exempted from the computation of the amount of the sales tax the gross receipts from the sale of tangible personal property to operators of waterborne vessels to be used or consumed principally outside the project area and the city in which the sale is made and directly and exclusively in the carriage of persons or property in such vessels for commercial purposes.

(8) A provision that the storage, use, or other consumption of tangible personal property purchased by operators of waterborne vessels and used or consumed by such operators directly and exclusively in the carriage of persons or property in such vessels for commercial purposes is exempted from the use tax.

(9) A provision that there are exempted from the computation of the amount of the sales tax the gross receipts from the sale of tangible personal property to operators of aircraft to be used or consumed principally outside the project area and the city in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this state, the United States, or any foreign government.

(10) A provision that, in addition to the exemptions provided in Sections 6366 and 6366.1, the storage, use, or other consumption of tangible personal property purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this state, the United States, or any foreign government is exempt from the use tax.

(b) The ordinance shall contain an enacting clause which states as follows: "The redevelopment agency of the City of _____ does ordain as follows:" Such ordinance shall be signed by the chairman of the agency and attested by the clerk or secretary of the agency, and shall take effect immediately upon its final passage, provided, however, that the ordinance shall become operative on the first day of the first calendar quarter commencing more than 180 days after adoption of the ordinance. In all other respects, such ordinance shall be introduced and passed, and notice given by publication, in the manner provided by law for general law cities.

(c) The exercise of the taxing power implemented pursuant to this section in any fiscal year shall be deemed a transfer of financial responsibility from the community to the agency for such fiscal year

within the meaning of subdivision (a) of Section 3 of Article XIII B of the California Constitution.

(d) Any redevelopment agency adopting a sales and use tax ordinance pursuant to this section shall not levy a sales or use tax in excess of the rate of sales and use tax levied by the city.

(e) Any redevelopment agency imposing sales and use taxes pursuant to this section shall use 20 percent of the revenues from these taxes to promote the supply of housing for low- and moderate-income families unless the agency finds that the unemployment rate in the contiguous census tract block groups or enumeration districts within the city's boundaries equal 1½ times the average statewide rate of unemployment for the previous calendar quarter based on data prepared by the Employment Development Department.

"Calendar quarter" means three consecutive months beginning with January. Adjustments shall be made for fluctuations in unemployment rates due to seasonal employment opportunities based on historical data. If the calendar quarter on which the agency is basing its finding has historically been a quarter of high unemployment for that city or county over the past five years, the agency shall not use that quarter to support its finding.

(f) Prior to adopting an ordinance which contains the provisions described in this section, the redevelopment agency shall consider the applicability of Section 4 of Article XIII A of, and Article XIII B of, the California Constitution to the terms of the proposed ordinance.

(g) 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. 7. Section 7203 of the Revenue and Taxation Code, as amended by Section 7 of Chapter 17 of the Statutes of 1984, is amended to read:

7203. (a) The use tax portion of any sales and use tax ordinance adopted under this part shall impose a complementary tax upon the storage, use or other consumption in the county of tangible personal property purchased from any retailer for storage, use or other consumption in the county. Such tax shall be at the rate of 1¼ percent of the sales price of the property whose storage, use or other consumption is subject to the tax and shall include:

(1) Provisions identical to the provisions contained in Part 1 (commencing with Section 6001) of this division, other than Section 6201 insofar as such provisions relate to the use tax except that the name of the county as the taxing agency enacting the ordinance shall be substituted for that of the state (but the name of the county shall not be substituted for the word "state" in the phrase "retailer engaged in business in this state" in Section 6203 nor in the definition of that phrase in Section 6203).

(2) A provision that all amendments subsequent to the date of such ordinance to the provisions of the Revenue and Taxation Code

relating to the use tax and not inconsistent with this part shall automatically become a part of the ordinance.

(3) A provision that the storage, use or other consumption of tangible personal property, the gross receipts from the sale of which has been subject to sales tax under a sales and use tax ordinance enacted in accordance with this part by any city and county, county, or city in this state, shall be exempt from the tax due under this ordinance.

(4) A provision that the amount subject to tax shall not include the amount of any sales tax or use tax imposed by the State of California upon a retailer or consumer.

(5) A provision that, in addition to the exemptions provided in Sections 6366 and 6366.1 of this code, the storage, use, or other consumption of tangible personal property purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this state, the United States or any foreign government is exempt from 80 percent of the use tax.

(b) This section shall cease to be operative on March 1, 1984, and thereafter this section shall become operative on January 1, 1988.

SEC. 8. Section 7203 of the Revenue and Taxation Code, as added by Section 8 of Chapter 17 of the Statutes of 1984, is amended to read:

7203. (a) The use tax portion of any sales and use tax ordinance adopted under this part shall impose a complementary tax upon the storage, use or other consumption in the county of tangible personal property purchased from any retailer for storage, use or other consumption in the county. Such tax shall be at the rate of 1¼ percent of the sales price of the property whose storage, use or other consumption is subject to the tax and shall include:

(1) Provisions identical to the provisions contained in Part 1 (commencing with Section 6001) of this division, other than Section 6201 insofar as such provisions relate to the use tax except that the name of the county as the taxing agency enacting the ordinance shall be substituted for that of the state (but the name of the county shall not be substituted for the word "state" in the phrase "retailer engaged in business in this state" in Section 6203 nor in the definition of that phrase in Section 6203).

(2) A provision that all amendments subsequent to the date of such ordinance to the provisions of the Revenue and Taxation Code relating to the use tax and not inconsistent with this part shall automatically become a part of the ordinance.

(3) A provision that the storage, use or other consumption of tangible personal property, the gross receipts from the sale of which has been subject to sales tax under a sales and use tax ordinance enacted in accordance with this part by any city and county, county, or city in this state, shall be exempt from the tax due under this ordinance.

(4) A provision that the amount subject to tax shall not include the amount of any sales tax or use tax imposed by the State of California upon a retailer or consumer.

(5) A provision that the storage, use, or other consumption of tangible personal property purchased by operators of waterborne vessels and used or consumed by such operators directly and exclusively in the carriage of persons or property in such vessels for commercial purposes is exempted from 80 percent of the use tax.

(6) A provision that, in addition to the exemptions provided in Sections 6366 and 6366.1 of this code, the storage, use, or other consumption of tangible personal property purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this state, the United States, or any foreign government is exempt from 80 percent of the use tax.

(b) 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. 9. Section 7261 of the Revenue and Taxation Code, as amended by Section 9 of Chapter 17 of the Statutes of 1984, is amended to read:

7261. (a) The transactions tax portion of any transactions and use taxes ordinance adopted under this part shall be imposed for the privilege of selling tangible personal property at retail, and shall include provisions in substance as follows:

(1) A provision imposing a tax for the privilege of selling tangible personal property at retail upon every retailer in the district at a rate of one-half of 1 percent of the gross receipts of the retailer from the sale of all tangible personal property sold by that person at retail in the district.

(2) Provisions identical to those contained in Part 1 (commencing with Section 6001) of this division, insofar as they relate to sales taxes and are not inconsistent with this part, except that the name of the district as the taxing agency shall be substituted for that of the state and that an additional transactor's permit shall not be required if a seller's permit has been or is issued to the transactor under Section 6067 of this code.

(3) A provision that all amendments subsequent to the effective date of this part to Part 1 (commencing with Section 6001) of this division relating to sales tax and not inconsistent with this part shall automatically become a part of the transactions and use taxes ordinance; provided, however, that no such amendment shall operate so as to affect the rate of tax imposed by the district's board.

(4) A provision that the amount subject to tax shall not include the amount of sales tax or use tax imposed by the State of California or by any city, city and county, or county pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law, or the amount of any

state-administered transactions or use tax.

(5) A provision that there are exempted from the tax the gross receipts from the sale of tangible personal property to operators of aircraft to be used or consumed principally outside the county in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this state, the United States, or any foreign government.

(6) A provision that sales of property to be used outside the district which are shipped to a point outside the district, pursuant to the contract of sale, by delivery to such point by the retailer or her agent, or by delivery by the retailer to a carrier for shipment to a consignee at such point, are exempt from the tax.

For purposes of this section, "delivery" of vehicles subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, and undocumented vessels registered under Article 2 (commencing with Section 680) of Chapter 5 of Division 3 of the Harbors and Navigation Code shall be satisfied by registration to an out-of-district address and by a declaration under penalty of perjury, signed by the buyer, stating that such address is, in fact, his principal place of residence.

"Delivery" of commercial vehicles shall be satisfied by registration to a place of business out of district and a declaration under penalty of perjury, signed by the buyer, that the vehicle will be operated from that address.

(7) A provision that the sale of tangible personal property is exempt from tax if the seller is obligated to furnish the property for a fixed price pursuant to a contract entered into prior to the operative date of the ordinance. A lease of tangible personal property which is a continuing sale of such property is exempt from tax for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to the operative date of the ordinance. For the purposes of this subdivision, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

(b) This section shall cease to be operative on March 1, 1984, and thereafter this section shall become operative on January 1, 1988.

SEC. 10. Section 7261 of the Revenue and Taxation Code, as added by Section 10 of Chapter 17 of the Statutes of 1984, is amended to read:

7261. (a) The transactions tax portion of any transactions and use taxes ordinance adopted under this part shall be imposed for the privilege of selling tangible personal property at retail, and shall include provisions in substance as follows:

(1) A provision imposing a tax for the privilege of selling tangible

personal property at retail upon every retailer in the district at a rate of one-half of 1 percent of the gross receipts of the retailer from the sale of all tangible personal property sold by that person at retail in the district.

(2) Provisions identical to those contained in Part 1 (commencing with Section 6001) of this division, insofar as they relate to sales taxes and are not inconsistent with this part, except that the name of the district as the taxing agency shall be substituted for that of the state and that an additional transactor's permit shall not be required if a seller's permit has been or is issued to the transactor under Section 6067 of this code.

(3) A provision that all amendments subsequent to the effective date of this part to Part 1 (commencing with Section 6001) of this division relating to sales tax and not inconsistent with this part shall automatically become a part of the transactions and use taxes ordinance; provided, however, that no such amendment shall operate so as to affect the rate of tax imposed by the district's board.

(4) A provision that the amount subject to tax shall not include the amount of sales tax or use tax imposed by the State of California or by any city, city and county, or county pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law, or the amount of any state-administered transactions or use tax.

(5) A provision that there are exempted from the tax the gross receipts from the sale of tangible personal property to operators of waterborne vessels to be used or consumed principally outside the county in which the sale is made and directly and exclusively in the carriage of persons or property in such vessels for commmercial purposes.

(6) A provision that there are exempted from the tax the gross receipts from the sale of tangible personal property to operators of aircraft to be used or consumed principally outside the county in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this state, the United States, or any foreign government.

(7) A provision that sales of property to be used outside the district which is shipped to a point outside the district, pursuant to the contract of sale, by delivery to such point by the retailer or his or her agent, or by delivery by the retailer to a carrier for shipment to a consignee at such point, are exempt from the tax.

For purposes of this section, "delivery" of vehicles subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, and undocumented vessels registered under Article 2 (commencing with Section 680) of Chapter 5 of Division 3 of the Harbors and Navigation Code shall be satisfied by registration to an out-of-district address and by a declaration under penalty of perjury, signed by the buyer, stating that such address is, in fact, his or her principal place of residence.

"Delivery" of commercial vehicles shall be satisfied by registration to a place of business out of district and a declaration under penalty of perjury, signed by the buyer, that the vehicle will be operated from that address.

(8) A provision that the sale of tangible personal property is exempt from tax if the seller is obligated to furnish the property for a fixed price pursuant to a contract entered into prior to the operative date of the ordinance. A lease of tangible personal property which is a continuing sale of such property is exempt from tax for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to the operative date of the ordinance. For the purposes of this subdivision, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

(b) 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. 11. Section 7262 of the Revenue and Taxation Code, as amended by Section 11 of Chapter 17 of the Statutes of 1984, is amended to read:

7262. (a) The use tax portion of any transactions and use tax ordinance adopted under this part shall impose a complementary tax upon the storage, use or other consumption in the district of tangible personal property purchased from any retailer for storage, use or other consumption in the district. Such tax shall be at a rate of one-half of 1 percent of the sales price of the property whose storage, use or other consumption is subject to the tax, and the ordinance shall include provisions in substance as follows:

(1) Provisions identical to those contained in Part 1 (commencing with Section 6001) of this division, insofar as they relate to use taxes and are not inconsistent with this part, except that the name of the district as the taxing agency shall be substituted for that of the state. The name of the district shall be substituted for the word "state" in the phrase "retailer engaged in business in this state" in Section 6203 and in the definition of that phrase.

An additional provision shall be included that a retailer engaged in business in the district shall not be required to collect use tax from the purchaser of tangible personal property unless the retailer ships or delivers the property into the district or participates within the district in making the sale of the property, including, but not limited to soliciting or receiving the order, either directly or indirectly, at a place of business of the retailer in the district or through any representative, agent, canvasser, solicitor, subsidiary or person in the district under authority of the retailer.

(2) A provision that all amendments subsequent to the effective date of this part to the provisions of Part 1 (commencing with Section

6001) of this division relating to the use tax and not inconsistent with this part shall automatically become a part of the ordinance; provided, however, that no such amendment shall operate so as to affect the rate of tax imposed by the district's board.

(3) A provision that the amount subject to tax shall not include the amount of any sales tax or use tax imposed by the State of California or by any city, city and county, or county pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law, or the amount of any state-administered transactions or use tax.

(4) A provision that the storage, use or other consumption of tangible personal property, the gross receipts from the sale of which have been subject to a transactions tax under any state-administered transactions and use taxes ordinance shall be exempt from the tax.

(5) A provision that, in addition to the exemptions provided in Sections 6366 and 6366.1 of this code, the storage, use, or other consumption of tangible personal property purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this state, the United States, or any foreign government is exempt from the use tax.

(6) A provision that the storage, use, or other consumption in the district of tangible personal property is exempt from tax if purchaser is obligated to purchase the property for a fixed price pursuant to a contract entered into prior to the operative date of the ordinance. The possession of, or the exercise of any right or power over, tangible personal property under a lease which is a continuing purchase of such property is exempt from tax for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease prior to the operative date of the ordinance. For the purposes of this subdivision, storage, use, or other consumption, or possession, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

(b) This section shall cease to be operative on March 1, 1984, and thereafter this section shall become operative on January 1, 1988.

SEC. 12. Section 7262 of the Revenue and Taxation Code, as added by Section 12 of Chapter 17 of the Statutes of 1984, is amended to read:

7262. (a) The use tax portion of any transactions and use tax ordinance adopted under this part shall impose a complementary tax upon the storage, use or other consumption in the district of tangible personal property purchased from any retailer for storage, use or other consumption in the district. Such tax shall be at a rate of one-half of 1 percent of the sales price of the property whose storage, use or other consumption is subject to the tax, and the ordinance shall

include provisions in substance as follows:

(1) Provisions identical to those contained in Part 1 (commencing with Section 6001) of this division, insofar as they relate to use taxes and are not inconsistent with this part, except that the name of the district as the taxing agency shall be substituted for that of the state. The name of the district shall be substituted for the word "state" in the phrase "retailer engaged in business in this state" in Section 6203 and in the definition of that phrase.

An additional provision shall be included that a retailer engaged in business in the district shall not be required to collect use tax from the purchaser of tangible personal property unless the retailer ships or delivers the property into the district or participates within the district in making the sale of the property, including, but not limited to soliciting or receiving the order, either directly or indirectly, at a place of business of the retailer in the district or through any representative, agent, canvasser, solicitor, subsidiary or person in the district under authority of the retailer.

(2) A provision that all amendments subsequent to the effective date of this part to the provisions of Part 1 (commencing with Section 6001) of this division relating to the use tax and not inconsistent with this part shall automatically become a part of the ordinance; provided, however, that no such amendment shall operate so as to affect the rate of tax imposed by the district's board.

(3) A provision that the amount subject to tax shall not include the amount of any sales tax or use tax imposed by the State of California or by any city, city and county, or county pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law, or the amount of any state-administered transactions or use tax.

(4) A provision that the storage, use or other consumption of tangible personal property, the gross receipts from the sale of which have been subject to a transactions tax under any state-administered transactions and use taxes ordinance shall be exempt from the tax.

(5) A provision that the storage, use, or other consumption of tangible personal property purchased by operators of waterborne vessels and used or consumed by such operators directly and exclusively in the carriage of persons or property in such vessels for commercial purposes is exempt from the use tax.

(6) A provision that, in addition to the exemptions provided in Sections 6366 and 6366.1 of this code, the storage, use, or other consumption of tangible personal property purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this state, the United States, or any foreign government is exempt from the use tax.

(7) A provision that the storage, use, or other consumption in the district of tangible personal property is exempt from tax if purchaser is obligated to purchase the property for a fixed price pursuant to a

contract entered into prior to the operative date of the ordinance. The possession of, or the exercise of any right or power over, tangible personal property under a lease which is a continuing purchase of such property is exempt from tax for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease prior to the operative date of the ordinance. For the purposes of this subdivision, storage, use, or other consumption, or possession, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

(b) 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. 13. 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 because other revenues are generated as a result of this act which equal or exceed the amount of any sales and use tax revenues lost by it under this act.

CHAPTER 839

An act to amend Section 5091 of the Education Code, and to amend Section 3567 of the Elections Code, relating to elections.

[Approved by Governor September 19, 1985. Filed with Secretary of State September 23, 1985.]

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

SECTION 1. Section 5091 of the Education Code is amended to read:

5091. (a) Whenever a vacancy occurs, or whenever a resignation has been filed with the county superintendent of schools containing a deferred effective date, the school district or community college district governing board shall, within 30 days of the vacancy or the filing of the deferred resignation, either order an election or make a provisional appointment to fill the vacancy. A governing board member may not defer the effective date of his or her resignation for more than 30 days after he or she files the resignation with the county superintendent of schools.

In the event that a governing board fails to make a provisional appointment or order an election within the prescribed 30-day period as required by this section, the county superintendent of schools shall call an election to fill the vacancy.

(b) When an election is ordered, it shall be held on the next

regular election date provided pursuant to Chapter 1 (commencing with Section 2500) of Division 4 of the Elections Code not less than 130 days after the occurrence of the vacancy or after the written resignation is filed with the county superintendent of schools.

(c) If a provisional appointment is made within the 30-day period, the registered voters of the district may, within 30 days from the date of the appointment, petition for the conduct of a special election to fill the vacancy. A petition shall be deemed to bear a sufficient number of signatures if signed by at least the number of registered voters of the district equal to 1½ percent of the number of registered voters of the district at the time of the last regular election for governing board members.

The petition shall be submitted to the county superintendent of schools having jurisdiction who shall have 30 days to verify the signatures. If the petition is determined to be legally sufficient by the county superintendent of schools, the provisional appointment is terminated, and the county superintendent of schools shall call a special election to be conducted no later than the 120th day after the determination. However, if a regular election date, as defined in Section 2500 of the Elections Code, occurs between the 120th day and the 150th day following the determination, the county superintendent of schools may call the election to be conducted on the regular election date.

(d) A provisional appointment made pursuant to subdivision (a) confers no powers or duties of a governing board member upon the appointee during the 30-day period following his or her appointment and within which a petition calling for special election may be filed. If a petition is not filed within the 30-day period, the appointee shall thereafter have all the powers and perform all the duties of a governing board member.

(e) A person appointed to fill a vacancy shall hold office only until the next regularly scheduled election for district governing board members, whereupon an election shall be held to fill the vacancy for the remainder of the unexpired term. A person elected at an election to fill the vacancy shall hold office for the remainder of the term in which the vacancy occurs or will occur.

(f) Whenever a petition calling for a special election is circulated, the petition shall meet all of the following requirements:

(1) The petition shall contain the clerk's estimate of the cost of conducting the special election.

(2) The name and residence address of at least one, but not more than five, of the proponents of the petition shall appear on the petition, each of which proponents shall be a registered voter of the school district or community college district, as applicable.

(3) None of the text or other language of the petition shall appear in less than 6-point type.

(4) The petition shall be prepared and circulated in conformity with the requirements of Sections 41 and 44 of the Elections Code.

If any of the requirements of this subdivision are not met as to any

petition calling for a special election, the county superintendent of schools shall not verify the signatures, nor shall any further action be taken with respect to the petition.

No person shall permit the list of names on petitions prescribed by this section to be used for any purpose other than qualification of the petition for the purpose of holding an election pursuant to this section.

The petition filed with the county superintendent of schools shall be subject to the restrictions in Section 6253.5 of the Government Code.

(g) Elections held pursuant to subdivisions (b) and (c) shall be conducted in as nearly the same manner as practicable as other governing board member elections.

SEC. 1.5. Section 5091 of the Education Code is amended to read:

5091. (a) Whenever a vacancy occurs, or whenever a resignation has been filed with the county superintendent of schools containing a deferred effective date, the school district or community college district governing board shall, within 60 days of the vacancy or the filing of the deferred resignation, either order an election or make a provisional appointment to fill the vacancy. A governing board member may not defer the effective date of his or her resignation for more than 60 days after he or she files the resignation with the county superintendent of schools.

In the event that a governing board fails to make a provisional appointment or order an election within the prescribed 60-day period as required by this section, the county superintendent of schools shall call an election to fill the vacancy.

(b) When an election is ordered, it shall be held on the next regular election date provided pursuant to Chapter 1 (commencing with Section 2500) of Division 4 of the Elections Code not less than 130 days after the occurrence of the vacancy or after the written resignation is filed with the county superintendent of schools.

(c) If a provisional appointment is made within the 60-day period, the registered voters of the district may, within 30 days from the date of the appointment, petition for the conduct of a special election to fill the vacancy. A petition shall be deemed to bear a sufficient number of signatures if signed by at least the number of registered voters of the district equal to 1½ percent of the number of registered voters of the district at the time of the last regular election for governing board members.

The petition shall be submitted to the county superintendent of schools having jurisdiction who shall have 30 days to verify the signatures. If the petition is determined to be legally sufficient by the county superintendent of schools, the provisional appointment is terminated, and the county superintendent of schools shall call a special election to be conducted no later than the 120th day after the determination. However, if a regular election date, as defined in Section 2500 of the Elections Code, occurs between the 120th day and the 150th day following the determination, the county

superintendent of schools may call the special election to be conducted on the regular election date.

(d) A provisional appointment made pursuant to subdivision (a) confers all powers and duties of a governing board member upon the appointee immediately following his or her appointment..

(e) A person appointed to fill a vacancy shall hold office only until the next regularly scheduled election for district governing board members, whereupon an election shall be held to fill the vacancy for the remainder of the unexpired term. A person elected at an election to fill the vacancy shall hold office for the remainder of the term in which the vacancy occurs or will occur.

(f) Whenever a petition calling for a special election is circulated, the petition shall meet all of the following requirements:

(1) The petition shall contain the clerk's estimate of the cost of conducting the special election.

(2) The name and residence address of at least one, but not more than five, of the proponents of the petition shall appear on the petition, each of which proponents shall be a registered voter of the school district or community college district, as applicable.

(3) None of the text or other language of the petition shall appear in less than 6-point type.

(4) The petition shall be prepared and circulated in conformity with the requirements of Sections 41 and 44 of the Elections Code.

If any of the requirements of this subdivision are not met as to any petition calling for a special election, the county superintendent of schools shall not verify the signatures, nor shall any further action be taken with respect to the petition.

No person shall permit the list of names on petitions prescribed by this section to be used for any purpose other than qualification of the petition for the purpose of holding an election pursuant to this section.

The petition filed with the county superintendent of schools shall be subject to the restrictions in Section 6253.5 of the Government Code.

(g) Elections held pursuant to subdivisions (b) and (c) shall be conducted in as nearly the same manner as practicable as other governing board member elections.

SEC. 2. Section 3567 of the Elections Code is amended to read:

3567. When the Secretary of State has received the arguments which will be printed in the ballot pamphlet, the Secretary of State shall, within five days of receipt thereof, send copies of the arguments in favor of the proposition to the authors of the arguments against and copies of the arguments against to the authors of the arguments in favor. The authors may prepare and submit rebuttal arguments not exceeding 250 words. The rebuttal arguments shall be filed with the Secretary of State no later than a date to be designated by the Secretary of State.

Rebuttal arguments shall be printed in the same manner as the direct arguments. Each rebuttal argument shall immediately follow

the direct argument which it seeks to rebut.

SEC. 3. Section 1.5 of this bill incorporates amendments to Section 5091 of the Education Code proposed by both this bill and SB 1386. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1986, (2) each bill amends Section 5091 of the Education Code, and (3) this bill is enacted after SB 1386, in which case Section 1 of this bill shall not become operative.

SEC. 4. Reimbursement to local agencies and school districts for costs mandated by the state pursuant to this act shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code and, if the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), shall be made from the State Mandates Claims Fund.

CHAPTER 840

An act to add Sections 12978 and 12985 to the Food and Agricultural Code, relating to pesticides.

[Approved by Governor September 19, 1985. Filed with Secretary of State September 23, 1985.]

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

SECTION 1. Section 12978 is added to the Food and Agricultural Code, to read:

12978. Pesticide applications on public property which take place on school grounds, parks, or other public rights-of-way where public exposure is foreseeable shall be posted with warning signs. The signs shall be in English and Spanish and shall contain a warning that the area has been treated with a pesticide and that individuals are not to enter the area.

(a) This section shall apply to all pesticide applications which have worker reentry intervals of at least 24 hours.

(b) Posting shall be accomplished immediately prior to pesticide applications, and the signs shall be removed within 24 hours after the expiration of the reentry interval.

(c) Signs shall be posted at regular intervals and at all regular points of public entry.

(d) The agency with responsibility for the property where the pesticide application is to take place shall post the warnings required by this section.

(e) The responsible agency may substitute a barrier for the warning signs to exclude public exposure to a treated area.

(f) This section does not apply to pesticide applications by the Department of Transportation on public highway rights-of-way.

SEC. 2. Section 12985 is added to the Food and Agricultural Code,

to read:

12985. Any person who orders an employee to enter an area posted with a warning sign in violation of any worker safety reentry requirements promulgated pursuant to this article by the director is guilty of a misdemeanor. A violation of this article affecting any worker or workers constitutes a separate offense for each affected worker.

SEC. 3. Reimbursement to local agencies and school districts for costs mandated by the state pursuant to this act shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code and, if the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), shall be made from the State Mandates Claims Fund, except that no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for those costs which may be incurred by a local agency or school district 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. 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 841

An act to amend Section 210 of, and to repeal and add Section 211.3 of, the Health and Safety Code, relating to health, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 19, 1985. Filed with Secretary of State September 23, 1985.]

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

SECTION 1. Section 210 of the Health and Safety Code is amended to read:

210. (a) The state department shall conduct a program of epidemiological assessments of the incidence of cancer. The program shall encompass all areas of the state for which cancer incidence data are available. The program shall include the monitoring of cancers associated with suspected carcinogens encountered by the general public both in occupational locations and in the environment generally.

(b) The program shall be under the direction of the director, who may enter into such contracts as are necessary for the conduct of the program and may accept, on behalf of the state, grants of public or private funds for the program. The director shall analyze available

incidence data and prepare reports and perform studies as necessary to identify cancer hazards to the public health and their remedies.

(c) It is the intent of the Legislature that an appropriation be included in each Budget Act in an amount sufficient to provide for the annual cost of the program.

SEC. 2. Section 211.3 of the Health and Safety Code is repealed.

SEC. 3. Section 211.3 is added to the Health and Safety Code, to read:

211.3. (a) The director shall establish a statewide system for the collection of information determining the incidence of cancer, using population-based tumor registries modeled after the Cancer Surveillance Program of Orange County. As of the effective date of this section the director shall begin phasing in the statewide cancer reporting system. By July 1, 1988, all county or regional registries shall be implemented or initiated. By July 1, 1990, the statewide cancer reporting system shall be fully operational. Within 60 days of the effective date of this section, the director shall submit an implementation and funding schedule to the Legislature.

(b) The department may designate any demographic parts of the state as regional cancer incidence reporting areas and may establish regional cancer registries, with the responsibility and authority to carry out the intent of this section in designated areas. Designated regional registries shall provide, on a timely basis, cancer incidence data as designated by the department to the department. The department may contract with an agency, including, but not limited to, a health systems agency, single county health department, multicounty health department grouping, or nonprofit professional association, representing a designated cancer reporting region for the purposes of collecting and collating cancer incidence data.

(c) The director shall designate cancer as a disease required to be reported in the state or any demographic parts of the state in which cancer information is collected under this section. All cancers diagnosed or treated in the reporting area shall thereafter be reported to the representative of the state department authorized to compile the cancer data, or any individual, agency, or organization designated to cooperate with that representative.

(d) Any hospital or other facility providing therapy to cancer patients within an area designated as a cancer reporting area shall report each case of cancer to the department or the authorized representative of the department. Any physician caring for cancer patients shall report each cancer case to the department or the authorized representative of the department except for those cases directly referred to a treatment facility or those previously admitted to a treatment facility for diagnosis or treatment of that instance of cancer.

(e) All physicians, hospitals, outpatient clinics, nursing homes and all other facilities, individuals or agencies providing diagnostic or treatment services to patients with cancer shall grant to the department or the authorized representative access to all records

which would identify cases of cancer or would establish characteristics of the cancer, treatment of the cancer, or medical status of any identified cancer patient. Willful failure to grant access to those records shall be punishable by a fine of up to five hundred dollars ($500) each day access is refused.

(f) All information reported pursuant to this section shall be confidential, as provided in Section 211.5, and shall be used for the purpose of determining the sources of malignant neoplasms and evaluating measures designed to eliminate, alleviate, or ameliorate their effect.

(g) For the purpose of this section, "cancer" means all malignant neoplasms, regardless of the tissue of origin, including malignant lymphoma, Hodgkins disease, and leukemia, but excluding basal cell and squamous cell carcinoma of the skin.

(h) Nothing in this section shall preempt the authority of facilities or individuals, providing diagnostic or treatment services to patients with cancer, to maintain their own facility-based tumor registries.

(i) It is the intent of the Legislature that the department, in establishing a system pursuant to this section, maximize the use of available federal funds.

SEC. 4. Reimbursement to local agencies and school districts for costs mandated by the state pursuant to this act shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code and, if the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), shall be made from the State Mandates Claims Fund.

SEC. 5. This bill would provide that, notwithstanding Section 2231.5 of the Revenue and Taxation Code, this bill does not contain a repealer, as required by that section; therefore, the provisions of the bill would remain in effect unless and until they are amended or repealed by a later enacted bill.

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 obtain data relating to causes of cancer at the earliest possible time, it is necessary for this act to take effect immediately.

CHAPTER 842

An act to amend Section 5715 of the Welfare and Institutions Code, relating to mental health.

[Approved by Governor September 20, 1985. Filed with Secretary of State September 23, 1985.]

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

SECTION 1. Section 5715 of the Welfare and Institutions Code is amended to read:

5715. Expenditures subject to payment shall include expenditures for the items specified in Section 5401; negotiated amounts approved by the department pursuant to Section 5705.2; salaries of personnel; approved facilities and services provided through contract; operation, maintenance, and service costs, including insurance costs or departmental charges for participation in a county self-insurance program if the charges are not in excess of comparable available commercial insurance premiums and on the condition that any surplus reserves be used to reduce future year contributions; depreciation of county facilities as established in the state's uniform accounting manual, disregarding depreciation on such a facility to the extent it was financed by state funds under this part; lease of facilities where there is no intention to, nor option to, purchase; expenses incurred under this act by members of the Conference of Local Mental Health Directors for attendance at regular meetings of such conferences; and such other expenditures as may be approved by the Director of Mental Health. Except for expenditures made pursuant to Article 6 (commencing with Section 436.30) of Chapter 4 of Part 1 of Division 1 of the Health and Safety Code, it shall not include expenditures for initial capital improvements; the purchase or construction of buildings except for such equipment items and remodeling expense as may be provided for in regulations of the State Department of Mental Health; compensation to members of a local mental health advisory board (except actual and necessary expenses incurred in the performance of official duties which may include travel, lodging, and meals while on official business); or expenditures for a purpose for which state reimbursement is claimed under any other provision of law.

SEC. 2. Section 5715 of the Welfare and Institutions Code is amended to read:

5715. Expenditures subject to payment shall include expenditures for the items specified in Section 5401; negotiated amounts approved by the department pursuant to Section 5705.2; salaries of personnel; approved facilities and services provided through contract; operation, maintenance, and service costs, including insurance costs or departmental charges for participation in a county self-insurance program if the charges are not in excess of comparable available commercial insurance premiums and on the condition that any surplus reserves be used to reduce future year contributions; depreciation of county facilities as established in the state's uniform accounting manual, disregarding depreciation on such a facility to the extent it was financed by state funds under this part; lease of facilities where there is no intention to, nor option to, purchase; expenses incurred under this act by members of the Conference of Local Mental Health Directors for attendance at

regular meetings of such conferences; expenses incurred by either the chairperson or elected representative of the local mental health advisory boards for attendance at regular meetings of the organization of Mental Health Advisory Boards; and such other expenditures as may be approved by the Director of Mental Health. Except for expenditures made pursuant to Article 6 (commencing with Section 436.30) of Chapter 4 of Part 1 of Division 1 of the Health and Safety Code, it shall not include expenditures for initial capital improvements; the purchase or construction of buildings except for such equipment items and remodeling expense as may be provided for in regulations of the State Department of Mental Health; compensation to members of a local mental health advisory board,except actual and necessary expenses incurred in the performance of official duties which may include travel, lodging, and meals while on official business; or expenditures for a purpose for which state reimbursement is claimed under any other provision of law.

SEC. 3. Section 2 of this bill incorporates amendments to Section 5715 of the Welfare and Institutions Code proposed by both this bill and SB 1425. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1986, (2) each bill amends Section 5715 of the Welfare and Institutions Code, and (3) this bill is enacted after SB 1425, in which case Section 1 of this bill shall not become operative.

CHAPTER 843

An act to amend Section 81802 of the Education Code, relating to child care.

[Approved by Governor September 20, 1985 Filed with Secretary of State September 23, 1985.]

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

SECTION 1. Section 81802 of the Education Code is amended to read:

81802. (a) As used in this chapter, "project" means the purpose for which a community college district has applied for assistance under this chapter for one or more institutions under its authority or for districtwide facilities. A project may include the planning, acquisition, and improvement of community college sites; the planning, construction, reconstruction, or remodeling of any permanent structure necessary for use as a classroom, a laboratory, a library, a performing arts facility, a gymnasium, the basic outdoor physical education facilities, the basic food service facilities, or child development centers, pursuant to Section 79120; related facilities necessary for the instruction of students or for administration of the

educational program; maintenance or utility facilities essential to the operation of the foregoing facilities; and the initial acquisition of equipment.

(b) A project may also include the reconstruction or remodeling of any facility leased or lease-purchased for educational purposes. The chancellor's office shall require transfer to the community college district of title or any other interest considered sufficient by the district, in and to facilities presently leased or to be leased in the future by the district, to the extent of the funds appropriated for reconstruction or remodeling of leased facilities. When sufficient title or interest has not been transferred, the term of the lease shall be of sufficient duration to completely amortize the reconstruction or remodeling cost. Such amortization shall be determined by utilizing current interest rates and normal accounting practices. If the lease is terminated prior to amortizing the reconstruction or remodeling costs the district shall repay the state for any unamortized state costs.

(c) The projects defined by subdivisions (a) and (b) of this section shall not be construed as a commitment by the Legislature as to the type or possible number of projects that may be considered during any fiscal year.

(d) A project shall not include the planning or construction of dormitories, student centers other than cafeterias, stadia, the improvement of sites for student or staff parking, or single-purpose auditoriums.

SEC. 2. The Legislature finds and declares that the lack of adequate child care facilities may bar a parent's access to education, with particular regard to equal education opportunities, and expresses the intent that the state government assist in providing child care and development services on each campus of the California Community Colleges. It is the intent of the Legislature that all postsecondary colleges provide child care services.

CHAPTER 844

An act to add Section 28 to the Business and Professions Code, relating to child abuse.

[Approved by Governor September 20, 1985. Filed with Secretary of State September 23, 1985.]

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

SECTION 1. Section 28 is added to the Business and Professions Code, to read:

28. The Legislature finds that there is a need to ensure that professionals of the healing arts who have demonstrable contact with child abuse victims, potential child abuse victims, and child abusers

and potential child abusers are provided with adequate and appropriate training regarding the assessment and reporting of child abuse which will ameliorate, reduce, and eliminate the trauma of child abuse and neglect and ensure the reporting of child abuse in a timely manner to prevent additional occurrences.

The Psychology Examining Committee and the Board of Behavioral Science Examiners shall establish required training in the area of child abuse assessment and reporting for all persons applying for initial licensure and renewal of a license as a psychologist, clinical social worker, or marriage, family, and child counselor on or after January 1, 1987. This training shall be required one time only for all persons applying for initial licensure or for licensure renewal on or after January 1, 1987.

All persons applying for initial licensure and renewal of a license as a psychologist, clinical social worker, or marriage, family and child counselor on or after January 1, 1987, shall, in addition to all other requirements for licensure or renewal, have completed coursework or training in child abuse assessment and reporting which meets the requirements of this section, including detailed knowledge of Section 11165 of the Penal Code. The training shall:

(a) Be completed after January 1, 1983.

(b) Be obtained from one of the following sources:

(1) An accredited or approved educational institution, as defined in Section 2902, including extension courses offered by those institutions.

(2) An educational institution approved by the Department of Education pursuant to Section 94310 of the Education Code.

(3) A continuing education provider approved by the responsible board or examining committee.

(4) A course sponsored or offered by a professional association or a local, county, or state department of health or mental health for continuing education and approved by the responsible board.

(c) Have a minimum of 7 contact hours.

(d) Include the study of the assessment and method of reporting of sexual assault, neglect, severe neglect, general neglect, willful cruelty or unjustifiable punishment, corporal punishment or injury, and abuse in out-of-home care. The training shall also include physical and behavioral indicators of abuse, crisis counseling techniques, community resources, rights and responsibilities of reporting, consequences of failure to report, caring for a child's needs after a report is made, sensitivity to previously abused children and adults, and implications and methods of treatment for children and adults.

(e) All applicants shall provide the appropriate board with documentation of completion of the required child abuse training.

The Psychology Examining Committee and the Board of Behavioral Science Examiners shall exempt any applicant who applies for an exemption from the requirements of this section and who shows to the satisfaction of the committee or board that there

would be no need for the training in his or her practice because of the nature of that practice.

It is the intent of the Legislature that a person licensed as a psychologist, clinical social worker, or marriage, family, and child counselor have minimal but appropriate training in the areas of child abuse assessment and reporting. It is not intended that by solely complying with the requirements of this section, a practitioner is fully trained in the subject of treatment of child abuse victims and abusers.

CHAPTER 845

An act to add Section 42238.6 to the Education Code, relating to school finance, and making an appropriation therefor.

[Approved by Governor September 20, 1985. Filed with Secretary of State September 23, 1985.]

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

SECTION 1. Section 42238.6 is added to the Education Code, to read:

42238.6. (a) The fiscal year average daily attendance computed under Section 42238.5 shall be increased, for each school district that operates any school that meets the eligibility requirements set forth in subdivision (b), by the number of child days of attendance of pupils enrolled in eligible schools in the district who are currently migratory children, as defined by Section 54441, and who are residing in state-operated migrant housing projects between the second principal apportionment and the end of the regular school year, divided by the number of days school was actually taught in the regular day schools of the district, excluding Saturdays and Sundays.

(b) For a school to be eligible for the purposes of this section, the following conditions shall apply:

(1) One or more state-operated migrant housing projects are located within the attendance area of the school.

(2) The maximum number of pupils enrolled in the school in the relevant fiscal year who are currently migratory children, as calculated under subdivision (a), constitutes not less than one-third of the total pupil enrollment of the school.

(c) The Superintendent of Public Instruction shall establish rules and regulations for the implementation of this section.

SEC. 2. The sum of two hundred thousand dollars ($200,000) is hereby appropriated from the General Fund to Section A of the State School Fund for the 1985–86 fiscal year for allocation for the purposes of Section 42238.6 of the Education Code.

CHAPTER 846

An act to amend Section 4 of Chapter 1330 of the Statutes of 1984, relating to mental health, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 20, 1985. Filed with Secretary of State September 23, 1985.]

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

SECTION 1. Section 4 of Chapter 1330 of the Statutes of 1984 is amended to read:

Sec. 4. If a county of the third class or a city and county has a charter which requires a vote of the electorate to effectuate the assimilation of state employees into the civil service system of the county of the third class or the city and county, the necessary election shall be held at the same time as any regularly scheduled elections prior to January 1, 1987. If the electorate rejects the proposition submitted at the election, the State Department of Mental Health shall, subject to the conditions of the Budget Act, maintain the level of services provided by state employees to the county of the third class or the city and county until an alternative method of providing the services can be negotiated and agreed upon by the department and the county of the third class or the city and county.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act.

SEC. 3. Due to the unique circumstances concerning counties of the third class, 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. 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 counties to have sufficient time to amend their charters by vote of the electorate to effectuate the assimilation of state employees into county civil service systems, it is necessary that this act take effect immediately.

CHAPTER 847

An act to add Section 27 to the Storm Water District Act of 1909 (Chapter 222 of the Statutes of 1909), relating to storm water districts, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 20, 1985. Filed with Secretary of State September 23, 1985.]

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

SECTION 1. Section 27 is added to the Storm Water District Act of 1909 (Chapter 222 of the Statutes of 1909), to read:

Sec. 27. (a) Once during the first two years of its existence, a district may borrow money and incur indebtedness as provided in this section. The indebtedness may be incurred for any purpose for which a district is authorized to expend funds, including, but not limited to, payment of the preliminary expenses incurred in the formation of the district and payment of current and estimated expenses of the district for the first two years of its existence.

(b) Prior to taking action to incur indebtedness pursuant to this section, the board of trustees shall make an estimate of the preliminary expenses incurred in the formation of the district, including (1) reimbursement to the proponents of formation of the district for expenses incurred by them in connection with the preparation and circulation of the petition for formation of the district, (2) expenses incurred by the county in which all, or the greater portion, of the district lies in giving the notice required by Section 2 of this act to call and hold the first election of trustees required by Section 6 of this act, and (3) the expenses to be incurred for the purposes for which the district was formed during the first two years of its existence, including the estimated cost of issuance of the warrants provided for in this section and of determining the validity of the warrants as required, and of the first year's interest on the indebtedness to be incurred.

(c) The board of trustees shall notify the board of supervisors which declared the district formed of the amount so estimated and of its intention to incur indebtedness in that amount and to issue warrants therefor as provided in this section. Promptly upon receipt of the notice, the board of supervisors shall call, notice, and hold an election within the district for the purpose of determining whether or not the indebtedness shall be incurred and warrants issued therefor. The election shall be called and noticed as a special election and shall be conducted by all-mailed ballot in the manner provided for general district elections of the district.

(d) If, at the election, less than two-thirds of the votes cast favor the incurring of the debt proposed and the issuance of warrants therefor, no such debt shall be incurred and no warrant shall be

issued. If, however, two-thirds or more of the votes cast at the election favor the incurring of the debt proposed and the issuance of warrants therefor, the board of trustees shall adopt a resolution authorizing the issuance of the warrants in the amount of the debt approved by the voters to which shall be added the cost of noticing, holding, and canvassing the special election provided for in this section, which resolution shall set forth the form of the warrants, provide for the maturities of the warrants, not to exceed 10 years from date of issuance, provide for interest, payable annually or semiannually, at a rate or rates not to exceed the rate specified by Section 53531 of the Government Code, that rate or rates to be fixed at the time of sale.

(e) The resolution may provide that the warrants shall be subject to call and redemption prior to maturity, at the option of the district, at the price or prices as fixed in the resolution, not exceeding a premium at 5 percent of the par value of the warrants subject to redemption. The resolution shall fix the method of giving notice of redemption to the holders of the warrants to be redeemed and the price or prices at which the warrants shall be subject to redemption. Warrants subject to call and redemption prior to maturity shall contain a recital to that effect on their face, and no warrant issued under this section shall be subject to call or redemption prior to its fixed maturity date unless it contains that recital.

(f) The validity of warrants to be issued under this section shall be determined prior to public sale thereof in an action brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure. Warrants issued under this section shall, after validation, be offered for public sale upon notice inviting sealed bids therefor. The notice shall be given by publication pursuant to Section 6061 of the Government Code in a newspaper of general circulation published in the district or, if such a newspaper is not printed and published in the district, in a newspaper of general circulation printed and published in the county in which all, or the greater portion, of the district lies. The sale shall not be held before 10 days after completion of that publication.

(g) The board may reject all bids received on public sale and either readvertise or sell the warrants at private sale, but no sale at private sale shall be made for less than the par value of the warrants and accrued interest thereon.

(h) Warrants issued under this section constitute general obligations of the district for the payment of both principal and interest. All real property in the district subject to assessment by the district, notwithstanding Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of the Revenue and Taxation Code, shall be assessed without limitation as to rate or amount. Warrants to be issued under this section are subject to investigation, report, and approval by the Treasurer as provided by the District Securities Investigation Law of 1965 (Chapter 2.5 (commencing with Section 58750) of Division 2 of Title 6 of the Government Code), and no

warrants shall be sold under this section in excess of an amount authorized by the Treasurer.

(i) Upon sale of the warrants, the district, out of the proceeds of sale, shall reimburse the county in which all, or the greater portion, of the district lies for its expenses incurred in giving the notice required by Section 2 of this act, in calling and holding the first election of trustees required by Section 6 of this act, and in noticing, holding, and canvassing the special election provided for in this section.

(j) This section shall not be operative in any county unless the board of supervisors of that county adopts a resolution requesting that it be made operative in the county.

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

In order for a storm water district to proceed promptly to accomplish the purposes for which it was formed and to thereby protect the lands of the district from damage by storm water, it is necessary that this act take effect immediately.

CHAPTER 848

An act to add Sections 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, and 55 to the Sacramento County Water Agency Act (Chapter 10 of the Statutes of 1952, First Extraordinary Session), relating to the Sacramento County Water Agency.

[Approved by Governor September 20, 1985. Filed with Secretary of State September 23, 1985.]

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

SECTION 1. Section 32 is added to the Sacramento County Water Agency Act (Chapter 10 of the Statutes of 1952, First Extraordinary Session), to read:

Sec. 32. Studies by the Department of Water Resources and others have documented that groundwater overdraft conditions exist within the boundaries of the agency and that the overdraft could result in groundwater quality degradation, land subsidence, and other adverse impacts. In order to prevent these impacts, the agency may establish within its boundaries groundwater management zones for the purpose of distributing surface water to replenish the groundwater basin and to stabilize groundwater levels and for collecting from the beneficiaries of these activities fees and charges to accomplish these purposes. A groundwater management zone may be formed only within that area of the agency identified in a

map approved by the board of directors and filed with the clerk of the board of supervisors not later than January 30, 1986. Changes in that map shall be accomplished in the same manner as the formation of zones. The agency may form the zones only when necessary to carry out this act.

SEC. 2. Section 33 is added to the Sacramento County Water Agency Act (Chapter 10 of the Statutes of 1952, First Extraordinary Session), to read:

Sec. 33. In any area to be benefited by the importation and distribution of surface water for municipal and industrial uses, a groundwater management zone may be formed in accordance with the following:

(a) Prior to formation of a groundwater management zone, the agency may cause preliminary hearings to be held to define groundwater problems and their solutions and cause preliminary reports to be prepared to include preliminary findings regarding the problems and their solutions and recommendations as to what further actions the agency should take. Notification of the preliminary hearings shall be in the same manner as the regular meetings of the board.

(b) Whenever the board proposes to form a groundwater management zone, and whether or not preliminary hearings have been held, the board shall adopt a resolution of intention to form the groundwater management zone and provide notice of a public formation hearing as required in this section. The resolution of intention shall state all of the following:

(1) The purpose of forming the groundwater management zone and of performing the other acts authorized in this section, and the benefit to the zone which will be derived therefrom.

(2) The boundaries of the proposed zone which will be benefited.

(3) The title of the proposed zone, which shall be "Sacramento County Water Agency Zone No. _____."

(4) The date and place where a formation hearing will be held on the proposed action.

(c) A copy of the resolution shall be mailed to all owners and operators of water-producing facilities within the proposed zone as shown in agency records, and shall be published pursuant to Section 6062 of the Government Code in a newspaper of general circulation published in the proposed zone or, if there is none, in a newspaper of general circulation published within the boundaries of the agency. Notice shall be mailed and published 60 days in advance of all hearings.

(d) At the formation hearing, any interested person, including persons owning property within the proposed zone, may appear and present any matters material to statements set forth in the resolution.

(e) Following a properly noticed formation hearing, the board may exclude from the proposed zone any territory which, in its opinion, would not be benefited by being in the proposed zone. Lands not included in the resolution of intention shall not be

included within the proposed zone except after a further hearing held by the board on the inclusion thereof, and after notice of the hearing duly given in the manner required pursuant to subdivision (c).

The board shall not modify the boundaries of the proposed zone so as to exclude therefrom any land which would be benefited by the formation of the zone, and shall not include in the proposed zone any lands which would not, in the judgment of the board, be benefited.

(f) If, before the close of the formation hearing, the board receives verified protests, written or oral, from owners of more than one-half of the land area or one-half of the registered voters within the proposed zone, it shall make a finding that sufficient verified protests have been received, it shall terminate the proceedings, and it shall not further attempt to form a groundwater management in the same territory for a period of six months following that termination.

(g) If majority protests are not received as provided in subdivision (f), the board may dismiss the proceedings or, after making all necessary and proper changes in the boundaries, may, by resolution, establish the groundwater management zone and set its boundaries, which shall be described by metes and bounds, and shall set forth both of the following:

(1) A declaration of the necessity therefor, including findings supported by substantial evidence that one or more of the following conditions exist:

(A) Declining groundwater levels.

(B) Degradation of groundwater quality.

(C) Ground subsidence.

(D) Saltwater intrusion.

(2) A finding supported by substantial evidence that there is presently available and physically capable of delivery within the zone an alternative source for replenishment or replacement of groundwater and that source is economically feasible in light of proposed uses and anticipated costs and other impacts upon users of both surface and groundwater.

(h) The determination of the board as to the area benefited by the zone shall be final and conclusive, unless amended by the board by following the procedures set forth in this section.

(i) The formation of a groundwater management zone shall become final 30 days after adoption by the board of the resolution of formation.

(j) Territory may be added to or removed from a groundwater management zone in the manner provided in this section for its creation.

(k) Irregularities in any zone formation proceeding, not having a substantial adverse effect upon the legal rights of any person, do not invalidate the proceeding.

(*l*) Any proceeding challenging the validity of any procedure followed pursuant to this section shall be commenced within 45 days

of the date of the procedure.

SEC. 3. Section 34 is added to the Sacramento County Water Agency Act (Chapter 10 of the Statutes of 1952, First Extraordinary Session), to read:

Sec. 34. Any groundwater management zone formed pursuant to this act is under the supervision, direction, and control of the board. Any obligation created on behalf of a groundwater management zone is limited to a charge against the properties situated within the zone. All provision of this act, insofar as they are applicable, including all provisions relating to bonds, contracts, groundwater charges, and promissory notes, but excluding assessments, apply to and govern groundwater management zones.

SEC. 4. Section 35 is added to the Sacramento County Water Agency Act (Chapter 10 of the Statutes of 1952, First Extraordinary Session), to read:

Sec. 35. The board, after creating a groundwater management zone, may levy and collect groundwater charges for the production of groundwater within that groundwater management zone. The power to collect those charges extends to groundwater pumping facilities owned by the state or any of its agencies or subdivisions.

SEC. 5. Section 36 is added to the Sacramento County Water Agency Act (Chapter 10 of the Statutes of 1952, First Extraordinary Session), to read:

Sec. 36. As used in connection with the groundwater charge, the following words have the following respective meanings:

(a) "Agricultural water" means water used in the growing and harvesting of plant crops, the raising of livestock, fish, or poultry, the operation of dairies, or other farm agricultural uses.

(b) "Board" means the board of directors of the agency unless otherwise expressly provided; and "board" and "agency" are used interchangeably.

(c) "Groundwater" means all water beneath the earth's surface, whether or not flowing through known and definite channels, but does not include any water which is subject to appropriation under Part 2 (commencing with Section 1200) of Division 2 of the Water Code.

(d) "Owner" or "operator" means the person to whom a water-producing facility charge is sent by the county assessor or, if not separately assessed, the person who owns the land upon which a water-producing facility is located.

(e) "Person," "owner," or "operator" means federal, state, and local agencies, private corporations, firms, partnerships, individuals, or groups of individuals, whether legally organized or not.

(f) "Production" or "producing" means the extraction of groundwater, by pumping or any other method, from shafts, tunnels, wells, excavations, or other means of access to the groundwater, for domestic, municipal, irrigation, industrial, or other use, except that the terms do not mean or include the extraction of groundwater produced in the construction or reconstruction of a well, water

incidentally produced with oil or gas in the production of oil or gas, water incidentally produced in a bona fide mining operation, water incidentally produced in the bona fide construction of a tunnel, or dewatering for construction.

(g) "Small water producing facility" means a facility which has a discharge opening not greater than a size to be specified by the board and which does not provide water for an area in excess of that to be specified by the board.

(h) "Water-producing facility" means any device or method, mechanical or otherwise, for the production of water from the groundwater supplies within a zone.

(i) "Water purveyor" means irrigation districts, county water districts, water conservation districts, municipalities, any other districts, or political subdivisions of the state authorized by law to appropriate water and to deliver water to users, mutual water companies, and public water utilities as defined in Section 216 of the Public Utilities Code.

(j) "Water year" means October 1 of one calendar year to September 30 of the following calendar year.

SEC. 6. Section 37 is added to the Sacramento County Water Agency Act (Chapter 10 of the Statutes of 1952, First Extraordinary Session), to read:

Sec. 37. Prior to establishing any groundwater charge in any groundwater management zone, the board shall adopt a resolution stating its intention to do so, designating the zone in which it is proposed that the charges be levied, and requiring the registration of all water-producing facilities located within the zone as provided in Section 39. The resolution shall be published once a week for three consecutive weeks in a newspaper of general circulation published within the zones to be affected or, if there is none, in a newspaper of general circulation published within the boundaries of the agency.

SEC. 7. Section 38 is added to the Sacramento County Water Agency Act (Chapter 10 of the Statutes of 1952, First Extraordinary Session), to read:

Sec. 38. Groundwater charges levied pursuant to this act may only be expended for the benefit of the zone from which the groundwater charges have been collected.

The groundwater charges are to be levied upon the production of groundwater from all water-producing facilities, whether public or private, which are located within the zones. Proceeds from the charges shall be used for the benefit of all who rely directly or indirectly upon the groundwater supplies and surface water supplied to the zones.

The proceeds of groundwater charges levied and collected upon the production of water from groundwater supplies within any zone shall be used exclusively by the board for the following purposes:

(a) Payment of the costs which will benefit the zone for administration, planning, and studies for the purposes of stabilizing groundwater levels, protecting the groundwater quality, purchasing

surface water, implementing plans adopted or to be adopted by the agency, and carrying out the purposes of the agency for the zone.

(b) Payment of the costs of purchasing surface water or surface water rights which will benefit the zone, including payments made under any contract with the state, the United States, or any public or private utility, and including the reimbursement of entities for existing benefits provided to the zone.

(c) Payment of the costs of acquiring, constructing, maintaining, and operating facilities which will provide surface water for direct delivery or groundwater replenishment or replacement for the benefit of the zone, or which will measure groundwater extractions. However, the zone shall not directly serve retail customers of existing surface or groundwater purveyors without the consent of the existing water purveyor.

(d) Payment of any administrative costs and the principal on, and interest of, any bonded indebtedness or other obligations incurred by the agency on behalf of the zones for any of the purposes set forth in subdivision (c).

(e) Proceeds from groundwater charges shall be expended only on behalf of the zone in which they are collected.

SEC. 8. Section 39 is added to the Sacramento County Water Agency Act (Chapter 10 of the Statutes of 1952, First Extraordinary Session), to read:

Sec. 39. Within six months after the last date of publication of the resolution provided for in Section 37, stating the board's intent to establish a groundwater charge in a zone, all water-producing facilities located within the zone shall be registered with the agency by the owner or operator thereof on forms provided by the agency.

Any new water-producing facility, constructed or reestablished, or any abandoned water-producing facility which is reactivated after that six-month period, shall be registered with the agency.

Failure to register any water-producing facility, as required by this section, is a misdemeanor punishable by a fine of not more than five hundred dollars ($500) or imprisonment in the county jail for not more than six months, or by both that fine and imprisonment.

In addition to other information which the agency may determine is necessary and may require in the registration form to be provided to water-producing facilities, each facility shall also identify the owners of the land upon which it is located, and shall provide its general description and location, the name and address of the person charged with its operation, and the names and addresses of all persons owning or claiming to own an interest in the facility.

On the initial registration form, each operator shall state, to the extent possible from obtainable records, the quantity of groundwater produced from each water-producing facility, and the method used to measure that water production, in each of the five water years immediately preceding the date on which a groundwater charge became effective. However, the board may waive this requirement for operators of small water producing facilities or where the board

finds that water production records are not available for good and sufficient reason.

SEC. 9. Section 40 is added to the Sacramento County Water Agency Act (Chapter 10 of the Statutes of 1952, First Extraordinary Session), to read:

Sec. 40. After adoption of the resolution provided for in Section 37, the agency engineer shall annually prepare a report which includes, among other matters which the agency may desire, information on the availability of surface water and groundwater in the zone, the quantity of water needed for surface delivery and for replenishment or replacement of groundwater supplies within the zone for the ensuing water year, the amount of water which the agency is obligated to purchase for use in the zone during the ensuing water year, and an estimate of the amount of groundwater to be extracted within the zone during the ensuing water year.

SEC. 10. Section 41 is added to the Sacramento County Water Agency Act (Chapter 10 of the Statutes of 1952, First Extraordinary Session), to read:

Sec. 41. On or before January 1 of each year, the engineering report specified in Section 40 shall be delivered to the clerk of the board in writing. The clerk shall publish, pursuant to Section 6061 of the Government Code, a notice of the receipt of the report and of the public hearing to be held on or before the second Tuesday of February, in a newspaper of general circulation published within the zones affected or, if there is none, in a newspaper of general circulation published within the boundaries of the agency, at least 10 days prior to the date at which the public hearing regarding the engineering report shall be held.

The notice, among other information which the agency may provide therein, shall designate the time and place where the hearing will be held, designate the body conducting the hearing, and contain an invitation to all operators of water-producing facilities within the zone to call at the offices of the agency to examine the engineering report.

The board shall cause to be held, on or before the second Tuesday of February of each year, a public hearing at which time any operator of a water-producing facility situated within the zone, or any person interested in the condition of the groundwater supplies or the surface water supplies within the zone, may in person, or by representative, appear and submit evidence concerning the groundwater conditions and surface water supplies within the zone. Appearances also may be made supporting or protesting the written engineering report.

The board shall, before the levy of a groundwater charge, find and determine the estimated amount of agricultural water to be withdrawn from the groundwater supplies of the zone for the ensuing water year, the amount of water other than agricultural water to be withdrawn from the groundwater supplies of the zone for the ensuing water year, the estimated amount of water necessary

for surface distribution in the zone for the ensuing water year, and the amount of water the zone is obligated by contract to purchase. The findings and determinations by the board are conclusive and binding upon all persons and parties.

SEC. 11. Section 42 is added to the Sacramento County Water Agency Act (Chapter 10 of the Statutes of 1952, First Extraordinary Session), to read:

Sec. 42. (a) Within 30 days from the close of the hearing held pursuant to Section 41, if not conducted by the board, the hearing body shall refer its findings and recommendations to the board. The board shall conduct additional public hearings, as necessary, subject to the notification requirements in Section 41. Within 30 days from the close of the addditional hearings, the board shall determine whether or not groundwater charges should be levied in the zones. If the board determines that groundwater charges should be so levied, it shall, by ordinance, levy and affix the charges against all persons operating groundwater producing facilities within the zones during the ensuing water year. The groundwater charge may be a single overall rate per acre-foot for all purposes described in Section 38 or may be a multiple charge with one charge for the administration of this act, which would be a uniform rate on all groundwater production each year and a separate charge for the purposes described in Section 38, which may or may not be at one uniform rate for agricultural water and at different rates for all water other than agricultural water, if the levying of the charges has been authorized in the zone in the resolution adopted pursuant to Section 37 declaring the formation of the zone. In establishing the groundwater charges for agricultural water use and for municipal and industrial water use, the board shall consider all of the following:

(1) The capital, interest, and operating cost of delivering surface water to the zone.

(2) The differential, if any, in the cost of purchasing surface water for agricultural use in the zone, and the cost of purchasing surface water for municipal and industrial use in the zone.

(3) The financial benefit which has been created to the groundwater table by the importation of surface water into the zone.

(4) The payment of the cost of treatment of surface water if required and if provided by the agency through municipal and industrial groundwater charges and not through agricultural groundwater charges.

(5) Revenue from other sources available to the agency which would reduce the level of groundwater charges, capital costs, or operating costs.

With respect to small water-producing facilities, the board may, for administrative convenience, assess a flat annual charge. However, the board may waive any minimal charge, if the board determines that the collecting of the minimal charge will not result in net economic benefit to the agency.

(b) Any groundwater charge levied pursuant to this section is in

addition to any taxes or other assessments, if any, levied within the agency or any zones thereof.

(c) The groundwater charge shall not exceed 25 percent of the cost of importing water into the zone.

(d) Any clerical errors in the name of any person or in the name or description of any water-producing facility where the production of water therefrom is otherwise properly charged, and, which errors do not affect the substantial rights of any person charged, do not invalidate the groundwater charge.

(e) Collection of groundwater charges shall be performed by the county treasurer-tax collector if so requested by the board.

SEC. 12. Section 43 is added to the Sacramento County Water Agency Act (Chapter 10 of the Statutes of 1952, First Extraordinary Session), to read:

Sec. 43. After levying groundwater replenishment or replacment charges, the agency shall give notice thereof to each operator of each water-producing facility, as shown in the records of the agency as being located in the zones in which the charges are levied. The notice shall state the groundwater charge applicable to the water-producing facility for each acre-foot of water to be produced during the ensuing water year. The notice may be sent by postal card or by other first-class mail, with postage prepaid by the agency.

SEC. 13. Section 44 is added to the Sacramento County Water Agency Act (Chapter 10 of the Statutes of 1952, First Extraordinary Session), to read:

Sec. 44. (a) After the adoption of the ordinance provided for in Section 41 for a zone in which a groundwater charge may be levied, each owner or operator of a water-producing facility within the zone, until the time when the water-producing facility has been permanently abandoned, shall file with the agency, on or before the 31st day of March and on or before the 30th day of September in each year, a statement setting forth the total production in acre-feet of water for the preceding six-month period, excluding the month in which the statement is due, a general description or number which provides the location of each water-producing facility, the method or basis of the computation of that water production, and the amount of the groundwater charge based on that computation. If no water has been produced from the water-producing facility during the preceding six-month period, the statement shall be filed as required and shall specify that water has not been produced during that period. The statement shall be verified by a written declaration that it is made under penalty of perjury. The groundwater charge is due and payable to the agency on or before the last day upon which the water-production statements shall be filed, and is computed by multiplying the amount of production in acre-feet of water by the groundwater charge for each classification of water. When any water-producing facility has been permanently abandoned, the operator thereof shall give written notice of the abandonment to the agency within 30 days of its abandonment.

(b) If any operator of a water-producing facility fails to pay the groundwater charge when due, the agency shall charge interest at the rate of 1 percent each month on the delinquent amount of the groundwater charge. If any owner or operator of a water-producing facility fails to register a water-producing facility, or fail to file the water-production statements as required by this section, the agency shall, in addition to charging interest, assess a penalty charge against the owner or operator in an amount of 10 percent of the amount found by the agency to be due. However, in those cases where payment in the proper amount has been made within the time required by this section and the failure to register the water-producing facility or to file the water-production statement within the time required by this section resulted, in the opinion of the board, from excusable and justifiable circumstances, the board may reduce the penalty to an amount of not less than 1 percent of the amount found to be due.

(c) When a water-measuring device is permanently attached to a water-producing facility by the owner or operator at his or her discretion or by the agency pursuant to Section 51, the records of water production as disclosed by the device shall be used as the basis for completing the water production statement unless the board determines that the water-measuring device was not measuring accurately.

(d) When a water-measuring device is not permanently attached to a water-producing facility, the board may establish the methods to be used in computing the amount of water produced from the water-producing facility.

(e) The methods may be based upon any, or all, of the following criteria:

(1) The size and efficiency of the water-producing facility.

(2) The size of the water-producing facility discharge opening.

(3) The area served by the water-producing facility.

(4) The use of the land served by the water-producing facility.

(5) The crops grown on land served by the water-producing facility.

(6) Any other criteria which may be used to determine with reasonable accuracy the amount of water produced from the facility.

SEC. 14. Section 45 is added to the Sacramento County Water Agency Act (Chapter 10 of the Statutes of 1952, First Extraordinary Session), to read:

Sec. 45. For good cause shown, an amended statement of water production may be filed, or a correction of the records may be made, at any time prior to the final date for filing the next semiannual water production statement. However, if pursuant to Section 47, the owner or operator has been notified of a determination by the agency that the production of water from the water-producing facility is in excess of that disclosed by the sworn statement covering the water-producing facility, and the owner or operator fails to protest that determination in the manner and in the time set forth in Section

47, the owner or operator is precluded from later filing an amended water production statement for that period for the water-producing facility.

SEC. 15. Section 46 is added to the Sacramento County Water Agency Act (Chapter 10 of the Statutes of 1952, First Extraordinary Session), to read:

Sec. 46. Each year the agency shall prepare a record for each zone in which a groundwater charge is levied. The record shall be called "The Record of Water Production and Groundwater Charges, Zone No. _____."

SEC. 16. Section 47 is added to the Sacramento County Water Agency Act (Chapter 10 of the Statutes of 1952, First Extraordinary Session), to read:

Sec. 47. (a) If the agency has reason to believe the production of water from any water-producing facility is in excess of that disclosed by the sworn statement covering the water-producing facility, or if the statement is not filed specifying the level of water production at a water-producing facility, the agency may cause an investigation and report to be made concerning the amount of water produced at the facility. The owner or operator of the facility shall furnish to the agency, within 60 days after notice from the agency, the records, notices, or bills, or certified duplicates thereof, which it received from utility entities, and other entities which furnish power or fuels, regarding the amount of power or fuel used to operate the facility during the relevant time period. The agency may fix the amount of water production from the water-producing facility at an amount not to exceed the maximum production capacity of the water-producing facility.

(b) After fixing the amount of water production, the agency shall send a written notice thereof by certified mail to the person operating the water-producing facility at his or her address as shown in the agency's records. The determination made by the agency is conclusive as to all persons having an interest in the water-producing facility, and, the groundwater charge, along with any interest and penalties thereon, shall be paid not later than 30 calendar days following the date on which the notice was mailed. However, the payment need not be made within this time, if the facility operator files a written protest with the board not later than 10 calendar days following the date of the notice. The protest shall set forth the grounds for protesting the amount of production determined by the board.

(c) Not later than 45 working days following the filing of the protest, the board shall hold a hearing and shall determine, within 10 working days thereof, the total amount of the water production and the groundwater charge thereon for the relevant time period. These determinations shall be based upon substantial evidence. During the hearing, formal rules of evidence need not apply. However, the agency and the facility operator may be represented by counsel. The facility operator shall be given 30-days notice of the

hearing date, time, and place and shall be advised that the operator's failure to appear could result in adverse findings against the operator. At the hearing, the facility operator and the agency may submit relevant and reliable evidence. A decision shall be mailed to the parties within 30 days following the hearing.

(d) If the water-production statement was filed and the amount disclosed thereon was inaccurate, but the operable charges therefor were paid within the time required by Section 44, and the board finds that the failure to report the accurate amount of water actually produced resulted from excusable or justifiable circumstances, the board may waive the interest and penalties found to be due. When charges are required to be paid, notice of the determination by the board shall be mailed to each facility operator, who shall have 20 days from the date of mailing to pay the groundwater charge, interest, and penalties provided by Section 44.

Notice required in this section shall be given by certified mail, addressed to the person on whom it is served at the address filed in the records of the agency or by personal delivery to that person. The service by certified mail is complete upon receipt by or for the person served or upon return unclaimed to the agency.

SEC. 17. Section 48 is added to the Sacramento County Water Agency Act (Chapter 10 of the Statutes of 1952, First Extraordinary Session), to read:

Sec. 48. The agency may bring a court action against any person operating a water-producing facility within the agency when brought to collect any delinquent groundwater charge. The court having jurisdiction of the suit may, in addition to allowing recovery of costs to the agency as allowed by law, fix and allow interest and penalties as part of the judgment as provided in Section 44.

If the agency, as a provisional remedy in bringing the suit, seek an attachment against the property of any named defendant therein, the agency shall not be required to provide a bond or undertaking as is otherwise provided for in Title 6.5 (commencing with Section 481.010) of Part 2 of the Code of Civil Procedure.

SEC. 18. Section 49 is added to the Sacramento County Water Agency Act (Chapter 10 of the Statutes of 1952, First Extraordinary Session), to read:

Sec. 49. (a) It is unlawful to produce water from any water-producing facility required to be registered unless the water-producing facility has been registered with the agency within the time required and, if required by the board pursuant to Section 51, has a water-measuring device affixed thereto capable of registering the accumulated amount of water production therefrom.

(b) Each violation of subdivision (a) is punishable by a fine of not more than five hundred dollars ($500) or imprisonment in the county jail for not more than six months, or by both that fine and imprisonment. Each day of operation in violation of the subdivision (a) is a separate offense.

SEC. 19. Section 50 is added to the Sacramento County Water

Agency Act (Chapter 10 of the Statutes of 1952, First Extraordinary Session), to read:

Sec. 50. It is a misdemenaor punishable by a fine of not more than five hundred dollars ($500) or imprisonment in the county jail for not more than six months, or by both that fine and imprisonment, for a person to do any of the following:

(a) To injure, alter, remove, reset, adjust, manipulate, obstruct, or in any manner interfere or tamper with, or to procure or cause or direct any person to injure, alter, remove, reset, adjust, manipulate, obstruct, or in any manner interfere or tamper with, any water-measuring device affixed by the owner or operator at his or her discretion or by the board pursuant to Section 51 to any water-producing facility as required by this act so as to cause the water-measuring device to improperly or inaccurately measure and record water production.

(b) To willfully not file with the agency a water-production statement as prescribed and within the time required by this act.

(c) To willfully remove or break a seal attached to an abandoned water-producing facility.

(d) To file with the agency any false or fraudulent water-production statement with intent to evade any provision or requirements of this act.

Each day of failure to file a water-production statement is a separate offense.

SEC. 20. Section 51 is added to the Sacramento County Water Agency Act (Chapter 10 of the Statutes of 1952, First Extraordinary Session), to read:

Sec. 51. (a) In enforcing the provisions of this act relating to groundwater replenishment or replacement charges, the agency may do all of the following:

(1) Affix seals to water-producing facilities located within the agency which the owner or operator thereof has declared to be abandoned or which are in fact permanently abandoned.

(2) Enter onto any land within the agency as permitted by law for the purposes enumerated in this section and for the purpose of making investigations relating to water production.

(3) Obtain records of energy consumption for water-producing facilities from the utility entity supplying the energy.

(b) If the agency has reason to believe the production of water from any water-producing facility is in excess of that disclosed in the sworn statement or the sworn statement has not been filed, all as provided in Section 47, the agency may install and maintain on the subject water-producing facility water measuring devices and other devices which will aid in determining accurate water production.

(c) Nothing in this act empowers the agency to install water measuring devices on residential services.

SEC. 21. Section 52 is added to the Sacramento County Water Agency Act (Chapter 10 of the Statutes of 1952, First Extraordinary Session), to read:

Sec. 52. Cessation of, or reduction in, the extraction of groundwater by the owner of a right to extract, due to the use of an alternative supply of surface water, is, for purposes of establishing and maintaining any right to extract the groundwater, a reasonable beneficial use of the groundwater, to the extent that water from the alternative source, or surface water, is applied to reasonable beneficial use, and the amount of surface water used does not exceed the amount of the groundwater reduction.

Any user of water from an alternate source within a groundwater management zone of the agency who seeks the benefit of this section, shall file with the agency, on or before December 31 of each calendar year, a statement of the amount of water from the alternate source so applied to reasonable beneficial use pursuant to this section during the preceding water year. The user may not claim the benefit of this section for any water year for which the statement is not so filed.

SEC. 22. Section 53 is added to the Sacramento County Water Agency Act (Chapter 10 of the Statutes of 1952, First Extraordinary Session), to read:

Sec. 53. (a) Public entities and public utilities may enter into appropriate contracts with the agency for utilization of groundwater management storage capacity within groundwater management zones of the agency, for subsequent recovery by the storing entity, pursuant to rules and conditions of the board.

(b) For public entities and public utilities located outside of Sacramento County, the contracts shall include all of the following:

(1) Agency control of all spreading or injection and extraction scheduling and procedures for the stored water.

(2) Calculation by the agency of any special costs, damages, or burdens resulting from the operations.

(3) Determination by the agency of, and accounting for, all losses in stored water, assuming that the stored water floats on top of the native groundwater supplies, and accounting for all losses of water which otherwise would have replenished the basin within the zone.

(4) Payment to the agency for the benefit of the groundwater producers within the zone of all special costs, damages, or burdens incurred. Water producers within the zone shall not incur any charge, rent, assessment, or expense for any benefits resulting from the storage.

(c) Within that portion of the area which is served by a district, mutual water company, or public water utility as defined in Section 216 of the Public Utilities Code and which is located within Sacramento County, the contract may be executed between the district, mutual water company, or public utility and shall include all of the following:

(1) Coordination of storage and pumping with the agency in conformance with the needs of a zone or the agency.

(2) Control of the quality of water for spreading or injection into the groundwater basin.

(3) Determination of the amount of water stored, and credit of the water stored to the district, mutual water company, or public utility which stores the water for the purpose of groundwater replenishment.

(4) Determination of the amount of water stored which benefits areas outside the geographical area of the district, mutual water company, or public utility storing the water and payment by those areas for the amount of water benefiting the areas to the district, mutual water company, or public utility storing the water.

SEC. 23. Section 54 is added to the Sacramento County Water Agency Act (Chapter 10 of the Statutes of 1952, First Extraordinary Session), to read:

Sec. 54. (a) A Water Advisory Commission is hereby established consisting of seven members, two members being nominated and appointed by the board, one of whom represents agriculture, and five members being appointed by the board from nominations by water purveyors operating within the agency, as follows:

(1) One member nominated by water purveyors delivering more than 50 percent of their total water supply for agricultural uses.

(2) One member nominated by public water utilities as defined in Section 216 of the Public Utilities Code.

(3) One member nominated by incorporated cities.

(4) One member nominated by water purveyors obtaining more than 50 percent of their water supply from groundwater and delivering more than 50 percent of their total water supply to municipal and industrial uses.

(5) One member nominated by water purveyors obtaining more than 50 percent of their water supply from surface water and delivering more than 50 percent of their total water supply for municipal and industrial uses.

(b) Terms of appointment of members of the commission are for four years. Three of the members shall be reappointed or replaced in January of odd-numbered years and four in even-numbered years, the time of reappointment or replacement to be selected by lot at the commission's initial meeting. Replacement of members in the event of a midterm vacancy shall be filled for the remainder of the unexpired term in the same manner as provided in subdivision (a) for the appointment of members.

(c) Compensation of members shall be the same as for members of the Sacramento County Planning Commission.

(d) The commission shall elect from its members a chairperson and a vice chairperson. A majority of the commission constitutes a quorum, and the commission shall adopt rules for its proceedings and set the time for its meetings. An affirmative vote of four members shall be required to constitute action of the commission. Meetings of the commission shall be conducted in accordance with the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code).

(e) Among other duties the board may confer on the commission,

those duties shall include advising the board on water policy, water planning, and water development proposals, agency budget and expenditures, groundwater management programs, water rights, conducting initial public hearings on zone formation, hydrologic boundary determinations, groundwater recharge proposals, and other matters which may come before the commission.

SEC. 24. Section 55 is added to the Sacramento County Water Agency Act (Chapter 10 of the Statutes of 1952, First Extraordinary Session), to read:

Sec. 55. (a) After a groundwater management zone has been formed, the board may, by resolution, order the creation of a zone council within the zone. The resolution shall set forth the number of members of the council and their term of office. The zone council for a zone which consists entirely of the territory of an incorporated city may be comprised of the city council of the incorporated city. The members of all other zone councils shall be appointed by the board from the eligible voters or landowners of the zone in which the council is established.

(b) Members of the zone council shall take office immediately upon their appointment by the board. At its first meeting, the zone council shall elect from its members a chairperson and a vice chairperson. A majority of the zone council constitutes a quorum for the transaction of business. The vote of a majority of the zone council members present at any meeting attended by a quorum is necessary to take action, unless otherwise specified in this act. Meetings of the zone council shall be conducted in accordance with the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code). The zone council shall, by resolution, set the time and place for holding regular meetings. Members of a zone council may receive compensation in an amount set by the board.

(c) Among other duties the board may confer on a zone council, those duties shall include advising the board on water policy, water planning, and water development proposals, zone budget and expenditures, groundwater management programs, water rights, conducting initial public hearings, hydrologic boundary determinations, groundwater recharge proposals, and other matters which may come before the zone council.

(d) A zone council shall be dissolved upon four-fifths vote of all members of the board, or upon a majority vote of all of the members of the board and a majority vote of all of the members of the zone council.

SEC. 25. Nothing in this act alters the existing authority of any district, mutual water company, or public water utility as defined in Section 316 of the Public Utilities Code.

SEC. 26. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program

specified in this act and because other costs which may be incurred by a local agency 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 849

An act to amend Section 11167.5 of the Health and Safety Code, relating to controlled substances.

[Approved by Governor September 20, 1985 Filed with Secretary of State September 23, 1985.]

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

SECTION 1. Section 11167.5 of the Health and Safety Code is amended to read:

11167.5. (a) When failure to issue a prescription for a controlled substance classified in Schedule II to a patient in a licensed skilled nursing facility, an intermediate care facility, or a licensed home health agency providing hospice care would, in the opinion of the prescriber, present an immediate hazard to the patient's health and welfare or result in intense suffering to the patient, the prescription may be dispensed upon an oral prescription. Prior to filling the prescription, the pharmacist shall reduce it to writing in ink or indelible pencil in the handwriting of the pharmacist upon an official prescription form issued by the Department of Justice for that purpose. The prescriptions shall be prepared in triplicate and shall contain the date the prescription was orally transmitted by the prescriber, the name of the person for whom the prescription was authorized, the name and address of the licensed facility or home health agency providing hospice care in which that person is a patient, the name and quantity of the controlled substance prescribed, the directions for use, and the name, address, category of professional licensure, and federal controlled substance registration number of the prescriber. The original shall be retained by the pharmacist, and the duplicate shall be forwarded to the prescriber by the end of the month in which the prescription was issued. The triplicate shall be endorsed with the signature of the pharmacist, the name and address of the pharmacy, and the signature of the person who received the controlled substances for the licensed facility or home health agency providing hospice care and shall be forwarded by the pharmacist to the Department of Justice at the end of the month in which the prescription was filled. Upon request, a skilled nursing facility, intermediate care facility, or licensed home health agency providing hospice care shall make available to the dispensing pharmacist copies of signed telephone

orders, chart orders, or related documentation substantiating an oral prescription transaction under this section.

(b) For the purposes of this section, "hospice care" means interdisciplinary health care which is designed to alleviate the physical, emotional, social, and spiritual discomforts of an individual who is experiencing the last phases of a terminal disease and to provide supportive care for the primary care person and the family of the patient under hospice care.

CHAPTER 850

An act to amend Sections 7539 and 7546.8 of the Business and Professions Code, relating to security guards.

[Approved by Governor September 20, 1985. Filed with Secretary of State September 23, 1985.]

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

SECTION 1. Section 7539 of the Business and Professions Code is amended to read:

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 or wear a badge, except while engaged in guard or patrol work and while wearing a uniform. Any person authorized to use or wear a badge shall wear a patch on each arm that reads "private security" and that includes the name of the private patrol company by which the person is employed or for which the person is a representative. The patch shall be of a standard design approved by the director and shall be clearly visible.

(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.

SEC. 2. Section 7546.8 of the Business and Professions Code is amended to read:

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.

(c) The chief shall refuse to register any person, on and after January 1, 1986, who has been convicted of a serious felony, as defined in Section 1192.7 of the Penal Code, unless the chief makes a determination of the fitness of the person.

SEC. 3. By enacting this act, the Legislature intends that uniformed employees of a private patrol operator be clearly and readily distinguishable from regular law enforcement officers.

SEC. 4. No reimbursement is required by this act pursuant to 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 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 851

An act to amend Section 5183 of the Civil Code, to add Section 26832 to the Government Code, and to amend Sections 114.5 and 10605 of the Health and Safety Code, relating to public records.

[Approved by Governor September 20, 1985. Filed with Secretary of State September 23, 1985.]

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

SECTION 1. Section 5183 of the Civil Code is amended to read:

5183. Funds collected by the state pursuant to subdivision (c) of Section 10605 of the Health and Safety Code, subdivision (a) of Section 26832 of the Government Code, and grants, gifts, or bequests made to the state from private sources to be used for the purposes of this title shall be deposited into the General Fund and shall only be used for the purposes of this title. No funds other than those so deposited shall be used for those purposes. That money shall be appropriated to the Judicial Council for the support of the programs authorized by this title as provided by the Legislature in the annual Budget Act. The Judicial Council may utilize funds to provide staffing as may be necessary to carry out the purposes of this title. In order to defray the costs of collection of these funds, the local registrar, county clerk, or county recorder may retain a percentage of the funds collected, not to exceed 10 percent of the fee payable to the state pursuant to subdivision (c) of Section 10605 of the Health and Safety Code.

SEC. 2. Section 26832 is added to the Government Code, to read:

26832. (a) Notwithstanding the fee authorized by Section 26833,

a fee of three dollars ($3) shall be paid by a public agency applicant for a certified copy of a marriage dissolution record that the agency is required to obtain in the ordinary course of business. A fee of six dollars ($6) shall be paid by any other applicant for a certified copy of a marriage dissolution record. Three dollars ($3) of any six-dollar ($6) fee shall be transmitted monthly by each county clerk to the state for deposit into the General Fund as provided by Section 5183 of the Civil Code.

(b) As used in this section, "marriage dissolution record" means the judgment.

SEC. 3. Section 114.5 of the Health and Safety Code is amended to read:

114.5. In the fee specified in subdivision (c) of Section 10605, the adjustment authorized by Section 114 shall be applicable to the additional fee charged to applicants other than public agency applicants for certified copies of marriage or marriage dissolution records, as well as to the other fees imposed by that section.

SEC. 4. Section 10605 of the Health and Safety Code is amended to read:

10605. (a) A fee of three dollars ($3) shall be paid by the applicant for a certified copy of a fetal death or death record.

(b) A fee of three dollars ($3) shall be paid by a public agency or licensed private adoption agency applicant for a certified copy of a birth certificate that the agency is required to obtain in the ordinary course of business. A fee of seven dollars ($7) shall be paid by any other applicant for a certified copy of a birth certificate. Four dollars ($4) of any seven-dollar ($7) fee is exempt from subdivision (e) and shall be paid to either a county children's trust fund or to the State Children's Trust Fund, in conformity with Article 5 (commencing with Section 18965) of Chapter 11 of Part 6 of Division 9 of the Welfare and Institutions Code.

(c) A fee of three dollars ($3) shall be paid by a public agency applicant for a certified copy of a marriage record, that has been filed with the county recorder or county clerk, that the agency is required to obtain in the ordinary course of business. A fee of six dollars ($6) shall be paid by any other applicant for a certified copy of a marriage record that has been filed with the county recorder or county clerk. Three dollars ($3) of any six-dollar ($6) fee is exempt from subdivision (e) and shall be transmitted monthly by each local registrar, county recorder, and county clerk to the state for deposit into the General Fund as provided by Section 5183 of the Civil Code.

(d) A fee of three dollars ($3) shall be paid by a public agency applicant for a certified copy of a marriage dissolution record obtained from the State Registrar that the agency is required to obtain in the ordinary course of business. A fee of six dollars ($6) shall be paid by any other applicant for a certified copy of a marriage dissolution record obtained from the State Registrar.

(e) Each local registrar, county recorder, or county clerk collecting a fee pursuant to this section shall transmit 15 percent of

the fee for each certified copy to the State Registrar by the 10th day of the month following the month in which the fee was received.

(f) The additional three dollars ($3) authorized to be charged to applicants other than public agency applicants for certified copies of marriage records by subdivision (c) may be increased pursuant to Section 114.

CHAPTER 852

An act to amend and to repeal Section 66452.6 of the Government Code, relating to subdivisions.

[Approved by Governor September 20, 1985. Filed with Secretary of State September 23, 1985]

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

SECTION 1. Section 66452.6 of the Government Code, as amended by Section 3.5 of Chapter 1302 of the Statutes of 1984, is amended to read:

66452.6. (a) An approved or conditionally approved tentative map shall expire 24 months after its approval or conditional approval, or after any additional period of time as may be prescribed by local ordinance, not to exceed an additional 12 months. However, if the subdivider is subject to a requirement of one hundred thousand dollars ($100,000) or more to construct or improve or finance the construction or improvement of public improvements outside the boundaries of the tentative map, each filing of a final map authorized by Section 66456.1 shall extend the expiration of the approved or conditionally approved tentative map by 36 months from the date of its expiration as provided in this section, or the date of the previously filed final map, whichever is later. The extensions shall not extend the tentative map more than 10 years from its approval or conditional approval. However, a tentative map on property subject to a development agreement authorized by Article 2.5 (commencing with Section 65864) of Chapter 4 of Division 1 may be extended for the period of time provided for in the agreement, but not beyond the duration of the agreement. The number of phased final maps which may be filed shall be determined by the advisory agency at the time of the approval or conditional approval of the tentative map.

"Public improvements," as used in this subdivision, includes traffic controls, streets, roads, highways, freeways, bridges, overcrossings, street interchanges, flood control or storm drain facilities, sewer facilities, water facilities, and lighting facilities.

(b) The period of time specified in subdivision (a) shall not include any period of time during which a development moratorium, imposed after approval of the tentative map, is in existence, provided however, that the length of the moratorium does not exceed five

years.

Once a moratorium is terminated, the map shall be valid for the same period of time as was left to run on the map at the time that the moratorium was imposed. However, if the remaining time is less than 120 days, the map shall be valid for 120 days following the termination of the moratorium.

(c) The period of time specified in subdivision (a), including any extension thereof granted pursuant to subdivision (e), shall not include the period of time during which a lawsuit involving the approval or conditional approval of the tentative map is or was pending in a court of competent jurisdiction if the stay of the time period is approved by the local agency pursuant to this section. After service of the initial petition or complaint in the lawsuit upon the local agency, the subdivider may apply to the local agency for a stay pursuant to the local agency's adopted procedures. Within 40 days after receiving the application, the local agency shall either stay the time period for up to five years or deny the requested stay. The local agency may, by ordinance, establish procedures for reviewing the requests, including, but not limited to, notice and hearing requirements, appeal procedures and other administrative requirements.

(d) The expiration of the approved or conditionally approved tentative map shall terminate all proceedings and no final map or parcel map of all or any portion of the real property included within the tentative map shall be filed with the legislative body pursuant to Section 66457 without first processing a new tentative map. Once a timely filing is made pursuant to Section 66457, subsequent actions of the local agency, including, but not limited to, processing, approving, and recording, may lawfully occur after the date of expiration of the tentative map.

(e) Upon application of the subdivider filed prior to the expiration of the approved or conditionally approved tentative map, the time at which the map expires may be extended by the legislative body or by an advisory agency authorized to approve or conditionally approve tentative maps for a period or periods not exceeding a total of three years. If the advisory agency denies a subdivider's application for extension, the subdivider may appeal to the legislative body within 15 days after the advisory agency has denied the extension.

(f) For purposes of this section, a development moratorium shall include a water or sewer moratorium or a water and sewer moratorium, as well as other actions of public agencies which regulate land use, development, or the provision of services to the land, other than the public agency with the authority to approve or conditionally approve the tentative map, which thereafter prevents, prohibits, or delays the approval of a final or parcel map.

(g) The rights conferred by a vesting tentative map as provided by Chapter 4.5 (commencing with Section 66498.1) shall last for an initial time period as provided by ordinance but shall not be less than

one year or more than two years beyond the recording of the final map. Where several final maps are recorded on various phases of a project covered by a single vesting tentative map, the one year initial time period shall begin for each phase when the final map for that phase is recorded.

The initial time period shall be automatically extended by any time used by the local agency for processing a complete application for a grading permit or for design or architectural review, if the time used by the local agency to process the application exceeds 30 days, from the date that a complete application is filed. Any time prior to the expiration of the initial time period provided by this section, the subdivider may apply for a one-year extension. If the extension is denied by an advisory agency, the subdivider may appeal that denial to the legislative body within 15 days.

(h) If the subdivider submits a complete application for a building permit during the periods of time specified in subdivision (g), the rights conferred by Chapter 4.5 (commencing with Section 66498.1) shall continue until the expiration of that permit, or any extension of that permit granted by the local agency.

SEC. 1.5. Section 66452.6 of the Government Code, as amended by Section 3.5 of Chapter 1302 of the Statutes of 1984, is amended to read:

66452.6. (a) An approved or conditionally approved tentative map shall expire 24 months after its approval or conditional approval, or after any additional period of time as may be prescribed by local ordinance, not to exceed an additional 12 months. However, if the subdivider is subject to a requirement of one hundred thousand dollars ($100,000) or more to construct or improve or finance the construction or improvement of public improvements outside the boundaries of the tentative map, each filing of a final map authorized by Section 66456.1 shall extend the expiration of the approved or conditionally approved tentative map by 36 months from the date of its expiration as provided in this section, or the date of the previously filed final map, whichever is later. The extensions shall not extend the tentative map more than 10 years from its approval or conditional approval. However, a tentative map on property subject to a development agreement authorized by Article 2.5 (commencing with Section 65864) of Chapter 4 of Division 1 may be extended for the period of time provided for in the agreement, but not beyond the duration of the agreement. The number of phased final maps which may be filed shall be determined by the advisory agency at the time of the approval or conditional approval of the tentative map.

"Public improvements," as used in this subdivision, include traffic controls, streets, roads, highways, freeways, bridges, overcrossings, street interchanges, flood control or storm drain facilities, sewer facilities, water facilities, and lighting facilities.

(b) The period of time specified in subdivision (a) shall not include any period of time during which a development moratorium, imposed after approval of the tentative map, is in existence, provided

however, that the length of the moratorium does not exceed five years.

Once a moratorium is terminated, the map shall be valid for the same period of time as was left to run on the map at the time that the moratorium was imposed. However, if the remaining time is less than 120 days, the map shall be valid for 120 days following the termination of the moratorium.

(c) The period of time specified in subdivision (a), including any extension thereof granted pursuant to subdivision (e), shall not include the period of time during which a lawsuit involving the approval or conditional approval of the tentative map is or was pending in a court of competent jurisdiction if the stay of the time period is approved by the local agency pursuant to this section. After service of the initial petition or complaint in the lawsuit upon the local agency, the subdivider may apply to the local agency for a stay pursuant to the local agency's adopted procedures. Within 40 days after receiving the application, the local agency shall either stay the time period for up to five years or deny the requested stay. The local agency may, by ordinance, establish procedures for reviewing the requests, including, but not limited to, notice and hearing requirements, appeal procedures and other administrative requirements.

(d) The expiration of the approved or conditionally approved tentative map shall terminate all proceedings and no final map or parcel map of all or any portion of the real property included within the tentative map shall be filed with the legislative body pursuant to Section 66457 without first processing a new tentative map. Once a timely filing is made pursuant to Section 66457, subsequent actions of the local agency, including, but not limited to, processing, approving, and recording, may lawfully occur after the date of expiration of the tentative map.

(e) Upon application of the subdivider filed prior to the expiration of the approved or conditionally approved tentative map, the time at which the map expires may be extended by the legislative body or by an advisory agency authorized to approve or conditionally approve tentative maps for a period or periods not exceeding a total of three years. If the advisory agency denies a subdivider's application for extension, the subdivider may appeal to the legislative body within 15 days after the advisory agency has denied the extension.

(f) For purposes of this section, a development moratorium shall include a water or sewer moratorium or a water and sewer moratorium, as well as other actions of public agencies which regulate land use, development, or the provision of services to the land, other than the public agency with the authority to approve or conditionally approve the tentative map, which thereafter prevents, prohibits, or delays the approval of a final or parcel map. A development moratorium is deemed to exist for purposes of this section for any period of time during which a condition imposed by

the city or county could not be satisfied because the condition was one which, by its nature, necessitated action by the city or county, and the city or county either did not take the necessary action or by its own action or inaction was prevented or delayed in taking the necessary action prior to expiration of the tentative map.

(g) The rights conferred by a vesting tentative map as provided by Chapter 4.5 (commencing with Section 66498.1) shall last for an initial time period as provided by ordinance but shall not be less than one year or more than two years beyond the recording of the final map. Where several final maps are recorded on various phases of a project covered by a single vesting tentative map, the one year initial time period shall begin for each phase when the final map for that phase is recorded.

The initial time period shall be automatically extended by any time used by the local agency for processing a complete application for a grading permit or for design or architectural review, if the time used by the local agency to process the application exceeds 30 days, from the date that a complete application is filed. Any time prior to the expiration of the initial time period provided by this section, the subdivider may apply for a one-year extension. If the extension is denied by an advisory agency, the subdivider may appeal that denial to the legislative body within 15 days.

(h) If the subdivider submits a complete application for a building permit during the periods of time specified in subdivision (g), the rights conferred by Chapter 4.5 (commencing with Section 66498.1) shall continue until the expiration of that permit, or any extension of that permit granted by the local agency.

SEC. 2. Section 66452.6 of the Government Code, as amended by Section 3 of Chapter 1302 of the Statutes of 1984, is repealed.

SEC. 3. Section 1.5 of this bill incorporates amendments to Section 66452.6 of the Government Code proposed by both this bill and AB 2488. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1986, (2) each bill amends Section 66452.6 of the Government Code, as amended by Section 3.5 of Chapter 1302 of the Statutes of 1984, and (3) this bill is enacted after AB 2488, in which case Section 1 of this bill shall not become operative.

SEC. 4. Reimbursement to local agencies and school districts for costs mandated by the state pursuant to this act shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code and, if the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), shall be made from the State Mandates Claims Fund.

CHAPTER 853

An act to add Section 61765.10 to the Government Code, and to add Sections 31031.8 and 31104.7 to the Water Code, relating to special districts.

[Approved by Governor September 20, 1985. Filed with Secretary of State September 23, 1985.]

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

SECTION 1. Section 61765.10 is added to the Government Code, to read:

61765.10. Notwithstanding Sections 61621.5 and 61765, in the Stallion Springs Community Services District, the water standby or availability charge shall not exceed thirty dollars ($30) per year for each acre of land on which the charge is levied or thirty dollars ($30) per year for each parcel of land less than one acre, and the sewer standby or availability charge shall not exceed fifteen dollars ($15) per year for each acre of land on which the charge is levied or fifteen dollars ($15) per year for each parcel of land less than one acre.

In fixing and collecting water or sewer standby or availability charges, the district shall follow the procedures for fixing and collecting water standby or availability charges set forth in this chapter.

This section, applicable only to the Stallion Springs Community Services District, is necessary because of the unique and special water and sewer management and financing problems in the area included within the district.

SEC. 2. Section 31031.8 is added to the Water Code, to read:

31031.8. Notwithstanding any other provision of this division, the Tuolumne Regional Water District, by a four-fifths vote of the members of the board of directors, may fix, levy, and collect a water standby or availability charge of not more than thirty dollars ($30) per acre per year for each acre of land, or thirty dollars ($30) per year for each parcel of land less than an acre, to which water is made available for any purpose by the district, by using any of the alternate methods and in the same manner and under the same terms and conditions as are provided in Sections 31031 and 31032 and Sections 31032.1 to 31032.9, inclusive.

SEC. 3. Section 31104.7 is added to the Water Code, to read:

31104.7. Notwithstanding any other provision of this division, the Tuolumne Regional Water District, by a four-fifths vote of the members of the board of directors, may fix, levy, and collect a sewage and waste service standby or availability charge of not more than thirty dollars ($30) per acre per year for each acre of land, or thirty dollars ($30) per year for each parcel of land less than an acre, to which sewer service is made available by the district, by using any of the alternate methods and in the same manner and under the

same terms and conditions as are provided in Sections 31031 and 31032 and Sections 31032.1 to 31032.9, inclusive.

SEC. 4. The Legislature finds and declares that Section 1 of this act is necessary as a special law and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique and special water and sewer management and financing problems within the Stallion Springs Community Services District which are not common to other districts organized pursuant to the Community Services District Law.

SEC. 5. The Legislature finds and declares that Sections 2 and 3 of this act are necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of unique and special problems within the Tuolumne Regional Water District which are not common to other districts organized pursuant to the County Water District Law.

The Tuolumne Regional Water District includes within its boundaries, and makes available water and sewer service to, many subdivisions that were subdivided in the 1960's and 1970's, but in which many of the lots have not had homes or improvements yet constructed on them, and the ten dollar ($10) limit on standby charges set forth in Sections 31031 and 31032.1 of the Water Code, which limit was adopted in 1959, imposes an inequitable proportion of the cost of making that service available upon the limited number of lot owners in the subdivisions who are actually using this service.

Sections 31031.8 and 31104.7 of the Water Code are necessary, therefore, to enable the Tuolumne Regional Water District to more equitably apportion the costs of water and sewer services provided by the district.

CHAPTER 854

An act to amend Section 8671 of, and to add and repeal Sections 8671.2 and 8671.4 of, the Fish and Game Code, relating to gill and trammel nets, and making an appropriation therefor.

[Approved by Governor September 20, 1985. Filed with Secretary of State September 23, 1985.]

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

SECTION 1. Section 8671 of the Fish and Game Code is amended to read:

8671. Notwithstanding Sections 8693 and 8724, gill nets and trammel nets with less than a 6-inch mesh shall not be used in those portions of District 19, as follows:

(a) In waters less than 10 fathoms in depth, between a line

running 225° magnetic from Dana Point and a line running 225° magnetic from the southernmost stack of the power plant approximately 1.5 miles southeast of Carlsbad.

(b) In waters less than 13 fathoms in depth between a line running 225° magnetic from the southernmost stack of the power plant approximately 1.5 miles southeast of Carlsbad and a line running 225° magnetic from Scripps Pier.

(c) In waters less than 20 fathoms in depth between a line running 270° magnetic from Scripps Pier and a line running 270° magnetic from the North Jetty at the entrance to Mission Bay.

(d) This section shall remain in effect only until January 1, 1988, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1988, deletes or extends that date.

SEC. 2. Section 8671.2 is added to the Fish and Game Code, to read:

8671.2. Notwithstanding Sections 8693 and 8724, gill nets and trammel nets with less than a 6-inch mesh shall not be used in those portions of Disticts 18, 19, and 118 from June 1 to September 15, as follows:

(a) In waters less than eight fathoms in depth, between a line running 225° magnetic from Point Conception and a line extending 225° magnetic from Rincon Point.

(b) In waters less than six fathoms in depth, between a line extending 225° magnetic from Rincon Point to a line running 225° magnetic from the mouth of the Ventura River.

(c) In waters less than eight fathoms in depth, between a line running 225° magnetic from Point Mugu and a line connecting the southerly extremity of Malibu Point and the westerly extremity of Rocky Point (Palos Verdes Point).

(d) In waters less than 10 fathoms in depth, between a line extending 240° magnetic from the westerly extremity of Rocky Point (Palos Verdes Point) and a line running 180° magnetic from Point Fermin.

(e) In waters less than 12 fathoms in depth, between a line running 270° magnetic from the South Jetty at Mission Bay to a line running 180° magnetic from Point Loma Light.

(f) 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 enacted before January 1, 1988, deletes or extends that date.

SEC. 3. Section 8671.4 is added to the Fish and Game Code, to read:

8671.4. (a) Notwithstanding Sections 8693 and 8724 and subdivision (b) of Section 8671.2, gill nets and trammel nets with less than an 8-inch mesh shall not be used in that portion of District 19 in waters less than three fathoms in depth between a line running 225° magnetic from Pitas Point and a line running 225° magnetic from the Port Hueneme Light.

(b) 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 enacted before January 1, 1988, deletes or extends that date.

SEC. 4. No reimbursement is required by this act pursuant to 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 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 855

An act to repeal Sections 14999.11, 15337, 15339, and 15389 of the Government Code, relating to the Department of Commerce.

[Approved by Governor September 20, 1985. Filed with Secretary of State September 23, 1985.]

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

SECTION 1. Section 14999.11 of the Government Code is repealed.

SEC. 2. Section 15337 of the Government Code is repealed.

SEC. 3. Section 15339 of the Government Code is repealed.

SEC. 4. Section 15389 of the Government Code is repealed.

SEC. 5. The Legislature hereby declares that the strategic plan of the Department of Commerce entitled "Job Creation for California in the Decade of the Eighties," published in January 1984, and subsequently submitted to the Governor and to the Legislature, fulfills the requirements of Sections 14999.11 and 15339 of the Government Code as added by Chapter 1227 of the Statutes of 1982.

CHAPTER 856

An act to amend Section 48911 of the Education Code, relating to schools.

[Approved by Governor September 20, 1985. Filed with Secretary of State September 23, 1985.]

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

SECTION 1. Section 48911 of the Education Code is amended to read:

48911. (a) The principal of the school, the principal's designee, or the superintendent of schools may suspend a pupil from the school for any of the reasons enumerated in Section 48900, and pursuant to Section 48900.5, for no more than five consecutive schooldays.

(b) Suspension by the principal, the principal's designee, or the

superintendent shall be preceded by an informal conference conducted by the principal or the principal's designee or the superintendent of schools between the pupil and, whenever practicable, the teacher or supervisor or school employee who referred the pupil to the principal or the principal's designee or the superintendent of schools. At the conference, the pupil shall be informed of the reason for the disciplinary action and the evidence against him or her and shall be given the opportunity to present his or her version and evidence in his or her defense.

(c) A principal or the principal's designee or the superintendent of schools may suspend a pupil without affording the pupil an opportunity for a conference only if the principal or the principal's designee or the superintendent of schools determines that an emergency situation exists. "Emergency situation," as used in this article, means a situation determined by the principal, the principal's designee, or the superintendent to constitute a clear and present danger to the lives, safety, or health of pupils or school personnel. If a pupil is suspended without a conference prior to suspension, both the parent and the pupil shall be notified of the pupil's right to a conference, and the pupil's right to return to school for the purpose of a conference. The conference shall be held within two schooldays, unless the pupil waives this right or is physically unable to attend for any reason, including, but not limited to, incarceration or hospitalization. The conference shall then be held as soon as the pupil is physically able to return to school for the conference.

(d) At the time of suspension, a school employee shall make a reasonable effort to contact the pupil's parent or guardian in person or by telephone. Within one schoolday of the beginning of a suspension, a school employee shall mail a notice to the parent or guardian of the suspended pupil. The notice shall be, insofar as is practicable, in the primary language of the pupil's parent or guardian. The notice shall contain each of the following:

(1) A statement of the facts leading to the decision to suspend.

(2) The date and time when the pupil will be allowed to return to school.

(3) A statement of the right of the pupil or parent to request a meeting with the superintendent or the superintendent's designee pursuant to Section 48914.

(4) A statement of the parent's or the pupil's right to have access to the pupil's records as provided by Section 49069.

(5) A request that the parent or guardian attend a conference with school officials regarding the pupil's behavior, including notice that state law requires parents or guardians to respond to such request without delay.

(e) A school employee shall report the suspension of the pupil, including the cause therefor, to the governing board of the school district or to the district superintendent in accordance with the regulations of the governing board.

(f) The parent or guardian of any pupil shall respond without

delay to any request from school officials to attend a conference regarding his or her child's behavior.

No penalties may be imposed on a pupil for failure of the pupil's parent or guardian to attend a conference with school officials. Reinstatement of the suspended pupil shall not be contingent upon attendance by the pupil's parent or guardian at such conference.

(g) In a case where expulsion from any school or suspension for the balance of the semester from continuation school is being processed by the governing board, the school district superintendent or other person designated by the superintendent in writing may extend the suspension until such time as the governing board has rendered a decision in the action. However, an extension may be granted only if the superintendent or the superintendent's designee has determined, following a meeting in which the pupil and the pupil's parent or guardian are invited to participate, that the presence of the pupil at the school or in an alternative school placement would cause a danger to persons or property or a threat of disrupting the instructional process. If the pupil or the pupil's parent or guardian has requested a meeting to challenge the original suspension pursuant to Section 48914, the purpose of the meeting shall be to decide upon the extension of the suspension order under this section and may be held in conjunction with the initial meeting on the merits of the suspension.

(h) For the purposes of this section, a "principal's designee" is any one or more administrators at the school site specifically designated by the principal, in writing, to assist with disciplinary procedures.

In the event that there is not an administrator in addition to the principal at the school site, a certificated person at the school site may be specifically designated by the principal, in writing, as a "principal's designee," to assist with disciplinary procedures. The principal may designate only one such person at a time as the principal's primary designee for the school year.

An additional person meeting the requirements of this subdivision may be designated by the principal, in writing, to act for the purposes of this article when both the principal and the principal's primary designee are absent from the school site. The name of the person, and the names of any person or persons designated as "principal's designee," shall be on file in the principal's office.

CHAPTER 857

An act to amend Section 25210.77b of the Government Code, and to amend Section 31032.1 of the Water Code, relating to water charges.

[Approved by Governor September 20, 1985. Filed with Secretary of State September 23, 1985.]

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

SECTION 1. Section 25210.77b of the Government Code is amended to read:

25210.77b. A county may fix, on or before the first day of July in each calendar year, a water or sewer standby or immediate availability charge on all land within a county service area to which water or sewers are made available for any purpose by the county whether the water or sewers are actually used or not, except that such charge shall not apply to lands permanently dedicated exclusively to the public transportation of persons or property. The board of supervisors of the county which fixes such a water standby charge may establish schedules varying the charges in different months and in different localities within a county service area depending upon factors such as the uses to which the land is put, the cost of transporting the water to the land, the degree of availability or quantity of use of such water to the affected lands. The board may not, however, fix a charge in excess of thirty dollars ($30) for each acre of land, or thirty dollars ($30) for each parcel of land of less than one acre, for either water or sewer standby charges.

If a person for more than one year obtains substantially all of his water requirements for the contiguous parcels of land which he occupies from rainfall, springs, streams, lakes, rivers or wells, and if the person's primary economic activity on such land is the commercial extraction or processing of minerals, such land shall be exempt from any water standby or availability charges.

SEC. 2. Section 31032.1 of the Water Code is amended to read:

31032.1. A district may fix, as an alternative to the charge prescribed by Section 31031, in each fiscal year, water standby or availability assessments of not to exceed thirty dollars ($30) per acre per year for each acre of land, or thirty dollars ($30) per year for each parcel of land less than an acre within the district to which water is made available for any purpose by the district, whether the water is actually used or not. The board of directors of a district which fixes the assessment may establish schedules varying the assessment according to the land uses and the degree of availability or quantity of use of water to the affected lands, and may restrict the assessment to lands lying within one or more improvement districts within the district.

A district may elect to have the assessments for the fiscal year collected on the tax roll in the same manner, by the same persons and at the same time as, together with and not separately from, its general taxes. In that event, it shall cause a written report to be prepared and filed with the secretary which contain a description of each parcel of real property and the amount of the assessment for each parcel for the year.

CHAPTER 858

An act to amend Section 4766 of, and to add Section 22651.3 to, the Vehicle Code, relating to vehicles.

[Approved by Governor September 20, 1985. Filed with Secretary of State September 23, 1985.]

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

SECTION 1. Section 4766 of the Vehicle Code is amended to read:

4766. (a) Except as provided in subdivisions (b) and (c), the department shall refuse to renew the registration of any vehicle for which a notice of noncompliance has been transmitted to the department pursuant to subdivision (a) of Section 40002.1 if no certificate of adjudication therefor has been received by the department pursuant to those provisions. The department shall include on each potential registration card issued for use at the time of renewal, or on an accompanying document, an itemization of citations for which notices of noncompliance have been received by the department pursuant to subdivision (a) of Section 40002.1. The itemization shall include the citation number, citation date, and the jurisdiction that issued the underlying notice pursuant to subdivision (b) of Section 40002 and the administrative service fee for clearing the offense pursuant to subdivision (b) of this section.

(b) Upon application for renewal of vehicle registration for a vehicle subject to subdivision (a), the department shall not refuse registration renewal pursuant to subdivision (a) if the applicant, with respect to each outstanding certificate of noncompliance, (1) provides the department with a certificate of adjudication for the offense issued pursuant to subdivision (a) of Section 40002.1 and (2) pays an administrative service charge, which shall be established by the department to, in the aggregate, defray its costs in administering this section.

(c) Whenever registration of a vehicle subject to subdivision (a) is transferred or not renewed for two renewal periods, the department shall so notify each court which transmitted a notice of noncompliance affecting the vehicle and the department shall not thereafter refuse registration renewal pursuant to subdivision (a).

SEC. 2. Section 22651.3 is added to the Vehicle Code, to read:

22651.3. (a) 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 the vehicle from an offstreet public parking facility located within the territorial limits in which the officer or employee may act when the vehicle is registered in a foreign jurisdiction or is without

a current California registration 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.

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.

(b) The vehicle may be impounded until the owner or person in control of the vehicle 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 furnishes satisfactory evidence that bail has been deposited for all notices of parking violation issued for 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, the owner or person in control of the vehicle 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.

(c) 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 the owner or person in control of the vehicle.

CHAPTER 859

An act to add Section 5782.24 to the Public Resources Code, relating to recreation and park districts.

[Approved by Governor September 20, 1985. Filed with Secretary of State September 23, 1985.]

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

SECTION 1. Section 5782.24 is added to the Public Resources Code, to read:

5782.24. The district board of a district in the County of Sacramento has all rights and powers, expressed or implied, necessary to carry out the purposes and intent of this chapter, including, but not limited to, the following powers:

(a) To sue and be sued.

(b) To take or acquire real or personal property of every kind or any interest therein, within and without the district, by grant, purchase, gift, devise, or lease; and to hold, manage, occupy, dispose

of, convey, and encumber property and create a leasehold interest in property for the benefit of the district.

(c) To exercise the right of eminent domain, except the right shall be exercised only within the territory of the district and after approval for its exercise has been granted by resolution of the supervising authority.

(d) To appoint, employ, and pay persons who are necessary and adequately trained, to maintain and operate the property, improvements, and facilities under its control and to operate programs of public recreation. The board may employ personnel at the pleasure of the board or by contract, and may establish a merit system, retirement privileges, and provide for other employment practices either directly or through contractual arrangement with the state or other public agency or private organization.

(e) To employ counsel.

(f) To enter into and perform all necessary contracts.

(g) To borrow money, give security therefor, purchase on contract, and do and perform any and all acts and things necessary or proper to carry out this chapter.

(h) To contract with any public entity or person for the construction by the public entity, person, or contractor, or for the financing, maintenance, or operation of recreational facilities and activities within the district. However, the district shall nevertheless be responsible for and maintain control over the construction, financing, or operation of the recreational facilities and activities, and the district shall receive full consideration therefor.

(1) All contracts for furnishing materials or supplies not related to new construction, alterations, maintenance, or repairs of district real property the cost of which will exceed five thousand dollars ($5,000) shall be let by competitive bid and awarded to the vendor making the best offer. Notice to bidders shall be given by publication, mailing to interested vendors, or other means the district determines will promote reasonable competition in bidding. Determination of the best offer shall be based on factors relating to the efficiency of the district, including price, product quality, product fitness for the purposes intended, repair and maintenance reliability and adequacy of the vendor, and the responsibility of the vendor. The district board shall adopt the bidding procedure by ordinance at a public hearing for which notice has been provided. The district board shall periodically review individual contracts and the procedures for letting contracts under this paragraph to ensure that the best interests of the district are being served.

(2) All projects for new construction of public improvements to district real property with respect to which the cost for materials, supplies, and labor will exceed five thousand dollars ($5,000), and all projects for alterations, maintenance, or repair of district real property with respect to which the cost for materials, supplies, and labor will exceed three thousand dollars ($3,000), shall be let to the lowest responsible bidder. Notice inviting bids for those projects shall

be published in a newspaper in the district at least one week before the time specified by the district board for receiving bids. The district board may reject all bids and readvertise, or by a four-fifths vote may elect to purchase the materials or supplies in the open market, or to construct the building, structure, or improvement by force account.

SEC. 2. (a) No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution 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.

(b) No reimbursement is required by this act pursuant to Section 6 of Article XIIIB of the California Constitution because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act.

SEC. 3. (a) Section 1 of this act shall become operative as of the date that the Commission on State Mandates receives a resolution sufficient for the purpose of making findings of a local request pursuant to paragraph (1) of subdivision (a) of Section 17556 of the Government Code from the Board of Supervisors of the County of Sacramento and from the board of directors of all affected recreation and park districts.

(b) If Section 1 of this act becomes operative, the Board of Supervisors of the County of Sacramento shall report, on or before December 31, 1986, to the Legislature on its effect.

CHAPTER 860

An act to add Section 31558.8 to the Government Code, relating to county employees.

[Approved by Governor September 20, 1985. Filed with Secretary of State September 23, 1985.]

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

SECTION 1. Section 31558.8 is added to the Government Code, to read:

31558.8. Notwithstanding any of the provisions of Section 31558 to the contrary, a person over 35 years of age who is employed by a county of the third class, as established by Sections 28020 and 28024, as amended in 1971, as a detective or investigator in the office of the district attorney, which would make the person eligible to become a safety member if he or she had not been over the age of 35 years at the time of his or her employment, may, if he or she so elects, become a safety member as of the first day of the calendar month following his or her entrance into county service regardless of age.

A member may receive credit for that service, as a safety member, when he or she has contributed, with interest to the date paid, the difference between contributions made and those which would have been made by the member if he or she had been a safety member. The additional contributions shall be made prior to retirement.

This section shall not be operative in any county until such time as the board of supervisors shall, by resolution adopted by majority vote, make this section applicable in the county.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act.

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 861

An act to add Section 1203.1g to the Penal Code, relating to crimes.

[Approved by Governor September 20, 1985 Filed with Secretary of State September 23, 1985.]

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

SECTION 1. Section 1203.1g is added to the Penal Code, to read:

1203.1g. In addition to any other costs which a court is authorized to require a defendant to pay, upon conviction of any offense involving child abuse or neglect, the court may require that the defendant pay to a law enforcement agency incurring such cost, the cost of any medical examinations conducted on the victim in order to determine the nature or extent of the abuse or neglect. If the court determines that the defendant has the ability to pay all or part of the medical examination costs, the court may set the amount to be reimbursed and order the defendant to pay that sum to the law enforcement agency in the manner in which the court believes reasonable and compatible with the defendant's financial ability. In making a determination of whether a defendant has the ability to pay, the court shall take into account the amount of any fine imposed upon the defendant and any amount the defendant has been ordered to pay in restitution.

CHAPTER 862

An act to amend and repeal Section 12740 of, and to add and repeal Section 12740.1 of, the Insurance Code, relating to home protection contracts.

[Approved by Governor September 20, 1985. Filed with Secretary of State September 23, 1985.]

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

SECTION 1. Section 12740 of the Insurance Code is amended to read:

12740. The definitions used in this section govern the construction and terms used in this part but shall not affect any other provisions of this code:

(a) "Home protection contract" means a contract or agreement whereby a person, other than a builder, seller, or lessor of the home which is the subject of the contract, undertakes for a specified period of time, for a predetermined fee, to repair or replace all or any part of any component, system or appliance of a home necessitated by wear and tear, deterioration or inherent defect, or by the failure of an inspection to detect the likelihood of any such loss.

Such contract shall provide for a system of service for effectuating such repair or replacement and shall not include protection against consequential damage from the failure of any component, system or appliance.

(b) "Home protection company" means any person licensed pursuant to this part which issues home protection contracts.

(c) (1) "Protection contract fee" means the consideration received, or to be received, by a home protection company for the issuance of any home protection contract.

(2) Subject to the provisions of paragraph (3) of subdivision (a) of Section 12764, in the event coverage is provided prior to the time that an interest in the residential property to which it attaches is sold, the fee shall consist of a pro rata portion of the annual contract fee in effect on the date of commencement of coverage, prorated for the period beginning with the date of commencement of coverage and ending on the date of transfer of title to the residential property to which the contract attaches, and the annual contract fee for coverage commencing with the transfer of title to the affected residential property.

(d) "Home" or "residential property" as used in this part means any single or multiple unit or units, including mobilehomes, (as defined in Health and Safety Code Section 18211) used primarily for residential purposes.

(e) 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 enacted before January 1, 1988, deletes or extends that date. If that

date is not deleted or extended, then, on and after January 1, 1988, pursuant to Section 9611 of the Government Code, Section 12740 of the Insurance Code, as amended by Section 2 of Chapter 820 of the Statutes of 1981, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 2. Section 12740.1 is added to the Insurance Code, to read:

12740.1. Paragraph (2) of subdivision (c) of Section 12740 does not apply to those home protection contracts issued by a franchisor, or its parent, subsidiary, or affiliate to which the provisions of Section 12765 have been applied during the period from January 1, 1983, through December 31, 1985, subject to all of the following conditions:

(a) The franchisor, its parent, subsidiary, or affiliate provides as a precondition to the issuance of its home protection contract that the seller enter into an exclusive right-to-sell agreement with the franchisee for a minimum period of 90 days.

(b) This precondition was a standard policy and procedure in use by the franchisor, its parent, subsidiary, affiliate, or franchisee as of July 1, 1981.

(c) The inapplicability of paragraph (2) of subdivision (c) of Section 12740 is limited exclusively to home protection contracts issued by the franchisor, its parent, subsidiary, or affiliate upon the application of a franchisee in any real property transaction whereby the exclusive right-to-sell agreement referred to in subdivision (a) is entered into by the seller. A listing agreement of the franchisee which does not contain this exclusive right-to-sell provision shall not entitle the home protection contract to the exemption from the applicability of paragraph (2) of subdivision (c) of Section 12740 specified in this section.

(d) This section shall remain in effect only until January 1, 1988, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1988, deletes or extends that date.

SEC. 3. It is the intent of the Legislature in enacting and providing for the subsequent repeal of this act to allow sufficient time to permit analysis and review of the existing delivery system for home protection contracts by the Blue Ribbon Task Force on Financial Services to be created by Senate Bill 1372 of the 1985–86 Regular Session, and, based upon recommendations, to make appropriate changes in the law governing home protection companies.

CHAPTER 863

An act to add Section 14133.65 to the Welfare and Institutions Code, relating to medical assistance.

[Approved by Governor September 20, 1985. Filed with Secretary of State September 23, 1985.]

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

SECTION 1. Section 14133.65 is added to the Welfare and Institutions Code, to read:

14133.65. Prior authorization for the use of nonemergency medical transportation services by patients to and from dialysis treatment shall be approved for a period of up to one year when the patient has received the transportation services for the immediately preceding 12 months, the request for renewed prior authorization is supported by a physician's certification that the patient's condition is unlikely to improve during the period covered by the request, and the department has determined that there is medical necessity for the service. Whenever there is a change or improvement in the patient's condition, the physician shall submit a new certification to the department.

CHAPTER 864

An act to amend Sections 5655 and 12015 of, and to add Sections 12016, and 12017 to, the Fish and Game Code, relating to fish and game, and making an appropriation therefor.

[Approved by Governor September 20, 1985. Filed with Secretary of State September 23, 1985.]

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

SECTION 1. Section 5655 of the Fish and Game Code is amended to read:

5655. The department may clean up or abate, or cause to be cleaned up or abated, the effects of any petroleum or petroleum product deposited or discharged in the waters of the state or deposited or discharged in any location onshore or offshore where the petroleum or petroleum product is likely to enter the waters of this state and recover any costs incurred as a result of the cleanup or abatement activity.

SEC. 1.5. Section 5655 of the Fish and Game Code is amended to read:

5655. (a) In addition to the responsibilities imposed pursuant to Section 5651, the department may clean up or abate, or cause to be cleaned up or abated, the effects of any petroleum or petroleum product deposited or discharged in the waters of this state or deposited or discharged in any location onshore or offshore where the petroleum or petroleum product is likely to enter the waters of this state, order any person responsible for the deposit or discharge to clean up the petroleum or petroleum product or abate the effects

of the deposit or discharge, and recover any costs incurred as a result of the cleanup or abatement from the responsible party.

(b) The Oil Spill Emergency Response Account is hereby created in the Fish and Game Preservation Fund. All money recovered or received pursuant to this section shall be deposited in the account. Notwithstanding Section 13340 of the Government Code, all funds in the account, including interest thereon, are hereby continuously appropriated to the department to make financial resources immediately available to the department, and any other state agency, city, county, city and county, or special district, cooperating with the department, for any immediate costs incurred in responding to, cleaning up, abating the effects of, or determining the effect on the living resources of, any petroleum or petroleum product deposited or discharged in the waters of this state or deposited or discharged in any location onshore or offshore where the petroleum or petroleum product is likely to enter the waters of this state. Other funds immediately available to the department and to any cooperating state agency, city, county, city and county, or special district, from the federal government or from the person responsible for the deposit or discharge shall be expended to the maximum extent practicable prior to expending funds from the account. The department shall seek reimbursement of funds expended from the account from the federal government or from the person responsible for the deposit or discharge. The disbursement of any funds from the account shall not be construed as any waiver by the state to subsequently pursue any remedy available to it.

SEC. 2. Section 12015 of the Fish and Game Code is amended to read:

12015. (a) It is the intent of the Legislature that expeditious cleanup is the primary interest of the people of the State of California in order to protect the people and the environment of the state.

(b) In addition to any other penalty, anyone responsible for polluting, contaminating, or obstructing waters of this state, or depositing or discharging materials threatening to pollute, contaminate, or obstruct waters of this state, to the detriment of fish, plant, bird, or animal life in those waters, shall be required to remove any substance placed in the waters, or to remove any material threatening to pollute, contaminate, or obstruct waters of this state, which can be removed, that caused the prohibited condition, or to pay the costs of the removal by the department.

(c) Prior to taking any action committing the use of state funds pursuant to this section or Section 5655, the department shall first make a reasonable effort to have the person responsible, when that person is known and readily available, remove, or agree to pay for the removal of, the substance causing the prohibited condition, if the responsible person acts expeditiously and does not cause the prohibited condition to be prolonged to the detriment of fish, plant, animal, or bird life in the affected waters. When the responsible

party is unknown or is not providing adequate and timely cleanup, the emergency reserve account of the Hazardous Substance Account in the General Fund shall be used to provide funding for the cleanup pursuant to Section 25351 or 25354 of the Health and Safety Code. When those or other funds are not available, moneys in the Fish and Wildlife Pollution Cleanup and Abatement Account shall be available, in accordance with subdivision (c) of Section 12017, for funding the cleanup expenses.

SEC. 3. Section 12016 is added to the Fish and Game Code, to read:

12016. (a) In addition to any other provision of law, any person who discharges or deposits any substance or material deleterious to fish, plant, bird, or animal life or their habitat into, or which threatens to enter, the waters of this state is liable civilly to the department for all actual damages to fish, plant, bird, or animal life or their habitat and, in addition, for the reasonable costs incurred in cleaning up the deleterious substance or material or abating its effects, or both.

(b) For the purposes of this section, "deleterious substance or material" does not include substances or materials otherwise expressly permitted or authorized to be deposited or discharged into waters of the state by law.

SEC. 4. Section 12017 is added to the Fish and Game Code, to read:

12017. (a) The Fish and Wildlife Pollution Cleanup and Abatement Account in the Fish and Game Preservation Fund is hereby created.

(b) All funds recovered for cleanup, removal, or abatement costs incurred by the state pursuant to Section 5655 or 12015, plus the proceeds of civil damages recovered through legal actions pursuant to Section 12016, shall be deposited in the Fish and Wildlife Pollution Cleanup and Abatement Account. The moneys in the account are hereby continuously appropriated to the department for expenditure to reimburse or pay the cost of actions taken pursuant to Section 5655, 12015, or 12016, or any combination thereof.

(c) Funds in the Fish and Wildlife Pollution Cleanup and Abatement Account shall be expended by the department only if both of the following conditions exist:

(1) The department has made a reasonable effort to have the responsible party remove in a timely manner, or reimburse the department for the cost of removal, the substance causing the prohibited condition pursuant to Section 12015.

(2) Funds are not available for disbursement from the emergency reserve account of the Hazardous Substance Account in the General Fund pursuant to Section 25351 or 25354 of the Health and Safety Code.

(d) On June 30 of each fiscal year, all funds in the Fish and Wildlife Pollution Cleanup and Abatement Account in excess of five hundred thousand dollars ($500,000), shall be divided equally, and one-half of the excess shall be transferred to the Fish and Game Preservation

Fund and one-half transferred to the Endangered and Rare Fish, Wildlife, and Plant Species Conservation and Enhancement Account created by Section 1770 in the Fish and Game Preservation Fund for appropriation for the purposes prescribed in Section 1771.

SEC. 5. Section 1.5 of this bill incorporates amendments to Section 5655 of the Fish and Game Code proposed by both this bill and SB 686. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1986, (2) each bill amends Section 5655 of the Fish and Game Code, and (3) this bill is enacted after SB 686, in which case Section 5655 of the Fish and Game Code, as amended by SB 686, shall remain operative only until the operative date of this bill, at which time Section 1.5 of this bill shall become operative, and Section 1 of this bill shall not become operative.

CHAPTER 865

An act to add Section 66473.6 to the Government Code, relating to subdivisions.

[Approved by Governor September 20, 1985. Filed with Secretary of State September 23, 1985.]

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

SECTION 1. Section 66473.6 is added to the Government Code, to read:

66473.6. Whenever a city or county imposes as a condition to its approval of a tentative map or a parcel map a requirement that necessitates replacing, undergrounding, or permanently or temporarily relocating existing facilities of a telephone corporation or cable television system, the developer or subdivider shall reimburse the telephone corporation or cable television system for all costs for the replacement, undergrounding, or relocation. All these costs shall be billed after they are incurred, and shall include a credit for any required advance payments and for the salvage value of any facilities replaced. In no event shall the telephone corporation or cable television system be reimbursed for costs incurred in excess of the cost to replace the facilities with substantially similar facilities.

CHAPTER 866

An act to amend Section 1539 of the Penal Code, relating to search warrants.

[Approved by Governor September 20, 1985. Filed with Secretary of State September 23, 1985.]

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

SECTION 1. Section 1539 of the Penal Code is amended to read:

1539. (a) If a special hearing be held in the superior court pursuant to Section 1538.5, or if the grounds on which the warrant was issued be controverted and a motion to return property be made (i) by a defendant on grounds not covered by Section 1538.5; (ii) by a defendant whose property has not been offered or will not be offered as evidence against him; or (iii) by a person who is not a defendant in a criminal action at the time the hearing is held, the judge or magistrate must proceed to take testimony in relation thereto, and the testimony of each witness must be reduced to writing and authenticated by a shorthand reporter in the manner prescribed in Section 869.

(b) The reporter shall forthwith transcribe his shorthand notes pursuant to this section if any party to a special hearing in the superior court files a written request for its preparation with the clerk of the court in which the hearing was held. The reporter shall forthwith file in the superior court an original and as many copies thereof as there are defendants (other than a fictitious defendant) or persons aggrieved. The reporter shall be entitled to compensation in accordance with the provisions of Section 869. In every case in which a transcript is filed as provided in this section, the county clerk shall deliver the original of such transcript so filed with him to the district attorney immediately upon receipt thereof and shall deliver a copy of such transcript to each defendant (other than a fictitious defendant) upon demand by him without cost to him.

(c) Upon a motion by a defendant pursuant to this chapter, the defendant shall be entitled to discover any previous application for a search warrant in the case which was refused by a magistrate for lack of probable cause.

CHAPTER 867

An act to amend Section 8237 of, and to add Section 8237.2 to, the Fish and Game Code, and to amend Section 11501 of the Government Code, relating to fish and game, and making an appropriation therefor.

[Approved by Governor September 20, 1985. Filed with Secretary of State September 23, 1985.]

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

SECTION 1. Section 8237 of the Fish and Game Code is amended to read:

8237. (a) The commission, after notice and opportunity for hearing, may suspend or revoke the commercial salmon fishing privilege, authorized under Sections 7852.5 and 7860, of any person for any of the following reasons:

(1) The person was not lawfully entitled to be issued a commercial fishing salmon stamp.

(2) A conviction of any provision of this code, or regulations adopted pursuant thereto, relating to commercial salmon fishing.

(3) A conviction of any provision of federal law, including the Magnuson Fishery Conservation and Management Act (16 U.S.C. Sec. 1801 et seq.) and regulations adopted pursuant thereto, relating to commercial salmon fishing.

(4) A violation of any requirement, term, or condition of commercial salmon fishing.

(b) The commission, after notice and opportunity for hearing, may suspend or revoke the commercial fishing privilege, authorized under Section 7850, for any violation of a term or condition of an agreement to compromise or dismiss a separate suspension or revocation action which was made pursuant to subdivision (d).

(c) The commission, after notice and opportunity for hearing, shall revoke or suspend a commercial salmon vessel permit issued pursuant to this article for any of the following reasons:

(1) The vessel permit was obtained by fraudulent means.

(2) The permittee failed to submit an application for renewal by May 1 pursuant to Section 8236.

(d) At any time after notice of a suspension or revocation of the privilege under subdivision (a) is issued by the commission, and before the order of suspension or revocation is final, the commission may, with the agreement of the person subject to the action, compromise or dismiss the action to revoke or suspend the commercial salmon fishing privilege in the best interests of the state, or the commission may compromise or dismiss the action with the agreement of the person subject to the action on terms and conditions, which may include, but are not limited to, the payment of civil damages, the reduction of a revocation to a suspension for a specified period of time, or any other terms and conditions.

(e) The commission may make and enforce such regulations as may be necessary or convenient for carrying out any power, authority, or jurisdiction conferred under this article.

(f) Subdivision (d) does not apply if an action is brought to recover civil damages under Section 2014 from the person subject to action under this section.

SEC. 2. Section 8237.2 is added to the Fish and Game Code, to read:

8237.2. (a) The commission, in consultation with the Commercial Salmon Fishing Review Board, shall promulgate regulations for the determination of civil damages provided for in

subdivision (d) of Section 8237 which give due consideration to the appropriateness of the civil damages with respect to all of the following factors:

(1) The gravity of the violation.

(2) The good faith of the convicted licensee.

(3) The history of previous violations.

(4) The damage to the fishery.

(5) The cost of restoration of the fishery.

(b) Civil damages imposed under subdivision (d) of Section 8237 shall be due and payable on or before a date which is 30 days after the compromise is entered.

SEC. 3. Section 11501 of the Government Code is amended to read:

11501. (a) This chapter applies to any agency as determined by the statutes relating to that agency.

(b) The enumerated agencies referred to in Section 11500 are:

Accountancy, State Board of
Aging, State Department of
Air Resources Board, State
Alcohol and Drug Abuse, State Department of
Alcoholic Beverage Control, Department of
Architectural Examiners, California State Board of
Attorney General
Automotive Repair, Bureau of
Barber Examiners, State Board of
Behavioral Science Examiners, Board of
Cancer Advisory Council
Cemetery Board
Chiropractic Examiners, Board of
Collection and Investigative Services, Bureau of
Community Colleges, Board of Governors of the California
Conservation, Department of
Consumer Affairs, Director of
Contractors, Registrar of
Corporations, Commissioner of
Cosmetology, State Board of
Dental Examiners of California, Board of
Developmental Services, State Department of
Education, State Board of
Electronic and Appliance Repair, Bureau of
Employment Agencies, Bureau of
Engineers, State Board of Registration for Professional
Fabric Care, State Board of
Fair Employment and Housing Commission
Fair Political Practices Commission
Fire Marshal, State
Fire Services, State Board of
Food and Agriculture, Director of
Forestry, Department of

Funeral Directors and Embalmers, State Board of
Geologists and Geophysicists, State Board of Registration for
Guide Dogs for the Blind, State Board of
Health Services, State Department of
Home Furnishings, Bureau of
Horse Racing Board, California
Insurance Commissioner
Labor Commissioner
Landscape Architects, State Board of
Medical Quality Assurance, Board of, Medical Quality Review Committees and Examining Committees
Mental Health, State Department of
Motor Vehicles, Department of
Navigation and Ocean Development, Department of
Nursing, Board of Registered
Nursing Home Administrators, Board of Examiners of
Optometry, State Board of
Osteopathic Examiners of the State of California, Board of
Pharmacy, California State Board of
Public Employees' Retirement System, Board of Administration of the
Real Estate, Department of
Resources Agency, Secretary of the
San Francisco, San Pablo and Suisun, Board of Pilot Commissioners for the Bays of
Savings and Loan Commissioner
School Districts
Shorthand Reporters Board, Certified
Social Services, State Department of
Statewide Health Planning and Development, Office of
Structural Pest Control Board
Tax Preparer Program, Administrator
Teacher Preparation and Licensing, Commission for
Teachers' Retirement System, State
Transportation, Department of, acting pursuant to the State Aeronautics Act
Veterinary Medicine, Board of Examiners in
Vocational Nurse and Psychiatric Technician Examiners of the State of California, Board of
Water Resources, Department of

CHAPTER 868

An act to amend Sections 6508.1 and 6546 of, and to add Sections 6547.5, 6547.6, 6547.7, and 8859 to, and to add Article 4 (commencing with Section 6584) to Chapter 5 of Division 7 of Title 1 of, the Government Code, relating to local agencies, and declaring the

urgency thereof, to take effect immediately.

[Approved by Governor September 20, 1985. Filed with Secretary of State September 23, 1985.]

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

SECTION 1. Section 6508.1 of the Government Code is amended to read:

6508.1. If the agency is not one or more of the parties to the agreement but is a public entity, commission, or board constituted pursuant to the agreement, the debts, liabilities, and obligations of the agency shall be debts, liabilities, and obligations of the parties to the agreement, unless the agreement specifies otherwise.

A party to the agreement may separately contract for, or assume responsibility for, specific debts, liabilities, or obligations of the agency.

SEC. 2. 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:

(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, including, but not limited to, general administrative facilities of a city, county, city and county, special district, or authority.

(d) A regional or local public park, recreational area, or recreational center, 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. As used in this chapter, "transmission of electric energy" does not include the final distribution of electric energy to the consumer.

(f) A facility for the disposal, treatment, or conversion to energy and reusable materials of solid or hazardous waste or toxic substances.

(g) Facilities for the production, storage, transmission, or treatment of water or wastewater.

(h) Local streets, roads, and bridges.

(i) Mass transit facilities or vehicles.

(j) Publicly owned or operated commercial or general aviation airports and airport-related facilities.

(k) Police or fire stations.

(*l*) Public works facilities, including corporation yards.

(m) Public health facilities owned or operated by a city, county, city and county, special district, or authority.

(n) Criminal justice facilities, including court buildings, jails, juvenile halls, and juvenile detention facilities.

(o) Public libraries.

(p) Publicly owned or operated parking garages.

(q) Low-income housing projects owned or operated by a city, county, city and county, or housing authority.

(r) Public improvements authorized in a project area created pursuant to the Community Redevelopment Law, Part 1 (commencing with Section 33000) of Division 24 of the Health and Safety Code.

(s) Public improvements authorized pursuant to the Improvement Act of 1911, Division 7 (commencing with Section 5000) of the Streets and Highways Code, the Improvement Bond Act of 1915, Division 10 (commencing with Section 8500) of the Streets and Highways Code, the Municipal Improvement Act of 1913, Division 12 (commencing with Section 10000) of the Streets and Highways Code, and the Mello-Roos Community Facilities Act of 1982, Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5.

(t) Equipment necessary to support the above-listed facilities or necessary to deliver public services therefrom, including, but not limited to, telecommunications equipment, computers, and service vehicles.

Bonds may be issued pursuant to this article if the joint powers entity, or its individual parties which contract pursuant to Sections 6547.5, 6547.6, or 6547.7 to make payments to be applied to the payment of the indebtedness, have the power to acquire, construct, maintain, or operate one or more of the projects specified in this section.

SEC. 3. Section 6547.5 is added to the Government Code, to read:

6547.5. A joint powers entity created pursuant to this chapter may issue revenue bonds pursuant to this article upon authorization by ordinance of only those individual parties to the joint powers agreement which contract to make payments to be applied to the payment of the revenue bonds, provided that the nonparticipating parties to the agreement incur no financial obligations under the issuance.

SEC. 4. Section 6547.6 is added to the Government Code, to read:

6547.6. A joint powers entity created pursuant to this chapter may incur other forms of indebtedness pursuant to Section 6547.1 for one or more projects specified in Section 6546 upon authorization by

ordinance of only those individual parties to the joint powers agreement which contract to make payments to be applied to the payment of the instruments of indebtedness, provided that the nonparticipating parties to the agreement incur no financial obligations under such instruments of indebtedness.

SEC. 5. Section 6547.7 is added to the Government Code, to read:

6547.7. A joint powers entity created pursuant to this chapter may issue mortgage revenue bonds pursuant to Part 5 (commencing with Section 52000) of Division 31 of the Health and Safety Code and industrial development bonds pursuant to the California Industrial Development Financing Act (Title 10 (commencing with Section 91500)).

SEC. 6. Article 4 (commencing with Section 6584) is added to Chapter 5 of Division 7 of Title 1 of the Government Code, to read:

Article 4. Local Bond Pooling

6584. This article shall be known and may be cited as the Marks-Roos Local Bond Pooling Act of 1985.

6584.5. The Legislature finds and declares all of the following:

(a) That there is a critical need within the state to expand, upgrade, and otherwise improve the public capital facilities of local government necessary to support the rehabilitation and construction of residential and economic development. The needs of local government for financing these facilities greatly exceed the amount of funds available from existing state, local, and federal sources.

(b) That it is the intent of the Legislature to assist in the reduction of local borrowing costs, help accelerate the construction, repair, and maintenance of public capital improvements, and promote greater use of existing and new financial instruments and mechanisms, such as bond pooling by local agencies.

6585. The definitions in this section shall govern the construction and interpretation of this article.

(a) "Authority" means an entity created pursuant to Article 1 (commencing with Section 6500).

(b) "Bond purchase agreement" means a contractual agreement executed between the authority and the local agency whereby the authority agrees to purchase bonds of the local agency.

(c) "Bonds" means bonds (including, but not limited to, assessment bonds, redevelopment agency bonds, government issued mortgage bonds, and industrial development bonds), notes (including bond, revenue, tax, or grant anticipation notes), commercial paper, floating rate, and variable maturity securities, and any other evidences of indebtedness and also includes certificates of participation or lease-purchase agreements.

(d) "Cost," as applied to a public capital improvement or portion thereof financed under this part, means all or any part of the cost of construction, renovation, and acquisition of all lands, structures, real or personal property, rights, rights-of-way, franchises, easements,

and interests acquired or used for a public capital improvement; the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which the buildings or structures may be moved; the cost of all machinery and equipment; finance charges; interest prior to, during, and for a period after, completion of that 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 public capital improvement.

(e) "Legislative body" means the governing body of a local agency.

(f) "Local agency" means a party to the agreement creating the authority, or an agency or subdivision of that party, sponsoring a project of public capital improvements.

(g) "Public capital improvements" means one or more projects specified in Section 6546 necessary to deliver local agency services or otherwise support residential and commercial development.

(h) "Revenue" means all income and receipts of the authority from a bond purchase agreement and all interest or other income from any investment of any money in any fund or account established for the payment of principal or interest or premiums on bonds.

6586. It is the Legislature's intent that this article be used to assist local agencies in financing public capital improvements or projects whenever there are significant public benefits for taking that action. For the purposes of this article, "significant public benefits" means any of the following, as determined by the local agency:

(a) Demonstrable savings in effective interest rate, bond preparation, bond underwriting, or bond issuance costs.

(b) Significant reductions in effective user charges levied by a local agency.

(c) Employment benefits from undertaking the project in a timely fashion.

(d) More efficient delivery of local agency services to residential and commercial development.

6587. This article does not limit any other law authorizing, or providing for, the financing of public capital improvements. Likewise, this article does not limit any other law regarding local indebtedness, or limit the exercise of any other power of an authority created pursuant to this chapter.

6588. In addition to other powers specified in an agreement pursuant to Article 1 (commencing with Section 6500), the authority may do all of the following:

(a) Adopt bylaws for the regulation of its affairs and the conduct

of its business.

(b) Sue and be sued in its own name.

(c) Issue bonds, including, at the option of the authority, bonds bearing interest, to pay the cost of any public capital improvement.

(d) Engage the services of private consultants to render professional and technical assistance and advice in carrying out the purposes of this article.

(e) As provided by applicable law, employ and compensate bond counsel, financial consultants, and other advisers determined necessary by the authority in connection with the issuance and sale of any bonds.

(f) Contract for engineering, architectural, accounting, or other services determined necessary by the authority for the successful development of a public capital improvement.

(g) Pay the reasonable costs of consulting engineers, architects, accountants, and construction, land use, recreation, and environmental experts employed by any sponsor or participant if the authority determines those services are necessary for the successful development of public capital improvements.

(h) Take title to, and sell by installment sale or otherwise, lands, structures, real or personal property, rights, rights-of-way, franchises, easements, and other interests in lands which are located within the state which the authority determines are necessary or convenient for the financing of public capital improvements, or any portion thereof.

(i) Receive and accept from any source, loans, contributions, or grants, in either money, property, labor, or other things of value, for, or in aid of, the construction financing, or refinancing of public capital improvement, or any portion thereof.

(j) Make secured or unsecured loans to any local agency in connection with the financing of capital improvement projects in accordance with an agreement between the authority and the local agency. However, no loan shall exceed the total cost of the public capital improvements as determined by the local agency and by the authority.

(k) Make secured or unsecured loans to any local agency in accordance with an agreement between the authority and the local agency to refinance indebtedness incurred by the local agency in connection with public capital improvements undertaken and completed.

(*l*) Mortgage all or any portion of its interest in public capital improvements 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.

(m) 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 a local agency 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 public capital improvements.

(n) Lease the public capital improvements being financed to a local agency, upon terms and conditions that the authority deems proper; charge and collect rents therefor; terminate any lease upon the failure of the lessee to comply with any of the obligations of the lease; include in any lease provisions that the lessee shall have options to renew the lease for a period or periods, and at rents as determined by the authority; purchase any or all of the public capital improvements; or, upon payment of all the indebtedness incurred by the authority for the financing of the public capital improvements, the authority may convey any or all of the project to the lessee or lessees.

(o) Charge and apportion to local agencies which benefit from its services the administrative costs and expenses incurred in the exercise of the powers authorized by this article.

(p) Issue, obtain, or aid in obtaining, from any department or agency of the United States or of the state, or any private company, any insurance or guarantee 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 article.

(q) Notwithstanding any other provision of this article, enter into any agreement, contract, or any other instrument with respect to any insurance or guarantee; accept payment in the manner and form as provided therein in the event of default by a local agency; and assign any insurance or guarantee which acts as security for the authority's bonds.

(r) Enter into any agreement or contract, execute any instrument, and perform any act or thing necessary, convenient, or desirable to carry out any power authorized by this article.

(s) Invest any moneys held in reserve or sinking funds, or any moneys not required for immediate use or disbursement, in obligations that are authorized by law for the investment of trust funds.

(t) At the request of affected local agencies, combine and pledge revenues to public capital improvements for repayment of one or more series of bonds issued pursuant to this article.

(u) Delegate to any of its individual parties or other responsible individuals the power to act on its behalf subject to its general direction, guidelines, and oversight.

(v) Purchase, with the proceeds of its revenue, bonds issued by any local agency. Bonds purchased pursuant to this subdivision may be held by the authority or sold to public or private purchasers at public or negotiated sale, in whole or in part, separately or together with other bonds issued by the authority.

(w) Set any other terms and conditions on any purchase or sale pursuant to this section as it deems by resolution to be necessary, appropriate, and in the public interest, in furtherance of the purposes of this article.

6589. An authority may enter into a bond purchase agreement with a local agency or agencies. The bond purchase agreement shall specify the maximum rate of interest, the cost of issuance, the amount of required reserve, and the procedure to be used in case of default.

6590. The authority may, from time to time, issue its bonds in the principal amount as the authority determines necessary to provide sufficient funds for its purposes, which may include, but shall not be limited to, providing funds for bond purchase agreements, payment of interest on bonds of the authority, establishment of reserves to secure the bonds, and other expenditures of the authority incident to issuance of the bonds. The authority may also issue bonds for the purpose of making loans to local agencies, to the extent those local agencies are authorized by law to borrow moneys, and the loan proceeds shall be used by the local agencies to pay for public capital improvements.

6591. (a) The authority is authorized from time to time to issue bonds to provide funds to achieve its purposes.

(b) Bonds may be authorized to finance a single public capital improvement for a single local agency, a series of public capital improvements for a single local agency, a single public capital improvement for two or more local agencies, or a series of public capital improvements for two or more local agencies.

(c) 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. These revenues or moneys may include the proceeds of additional bonds, subject only to any agreements with the holders of particular bonds pledging any particular revenues or moneys. Notwithstanding that the bonds may be payable from a special fund, they shall be deemed to be negotiable instruments for all purposes, subject only to the bond registration provisions.

(d) The bonds may be issued as serial bonds or as term bonds, or the authority may issue bonds of both types. The bonds shall be authorized by resolution of the authority and shall, as provided by the resolution, bear the date of issuance; the time of maturity, not exceeding 50 years from their date of issuance; bear the rate of interest, either fixed or variable; be payable at the time or times provided; be in the denominations provided; be in the form provided; carry the registration privileges provided; be executed in the manner provided; be payable in lawful money of the United States at the place or places provided; and be subject to the terms of redemption provided.

6592. Any resolution 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) Provisions pledging the full faith and credit of the authority, or pledging all or any part of the revenues of any public capital

improvements, or any revenue-producing contract or contracts made by the authority with any local agency, or any other moneys of the authority, to secure the payment of the bonds, and of any special account, subject to those agreements with bondholders as may then exist.

(b) Provisions setting out the rentals, fees, purchase payments, loan repayments, and other charges, and the amounts to be raised in each year thereby, and the use and disposition of the revenues.

(c) Provisions setting aside 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 public capital improvements 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 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) Definitions of 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 public capital improvements and the site thereof for the purpose of securing the bondholders.

(k) The mortgaging of land, improvements, or other assets owned by a local agency for the purpose of securing the bondholders.

(*l*) Procedures for the selection of public capital improvements to be financed with the proceeds of the bonds authorized by the resolution, if the bonds are to be sold in advance of designating the public capital improvements and the local agency to receive the financing.

6593. No member of the governing body of the authority shall be personally liable on the bonds or be subject to any personal liability or accountability by reason of the issuance of bonds.

6594. The authority may, out of any funds available therefor, purchase its bonds. The authority may hold, pledge, cancel, or resell the bonds, subject to, and in accordance with, agreements with bondholders.

6595. Any bonds issued under this article may be secured by a trust agreement between the authority and a corporate trustee or trustees, which may include any trust company or bank having the

powers of a trust company within or without the state.

(a) The trust agreement or the resolution providing for the issuance of the bonds may pledge or assign the revenues to be received or the proceeds of any contract or contracts 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 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 provisions specifically authorized to be included in any resolution or resolutions of the authority authorizing bonds.

(b) Any bank or trust company doing business under the laws of the state which may act as a depository of the proceeds of bonds or of revenues or other moneys shall furnish indemnifying bonds or pledge securities when 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 the authority determines to be reasonable and proper for the security of the bondholders.

6595.3. (a) The authority may issue bonds 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, on their earliest or any subsequent date of redemption, purchase, or maturity of these bonds. The authority may issue bonds for the additional purpose of paying all, or any part of, the costs of constructing and acquiring additions, improvements, extensions, or enlargements of any public capital improvement or any portion thereof.

(b) The proceeds of any bonds issued for the purpose of refunding outstanding bonds may be applied to the purchase or retirement at maturity or redemption of those outstanding bonds either on their earliest or any subsequent redemption date or upon the purchase or retirement at the maturity thereof and may, pending this application, be placed in escrow to be applied to the purchase or retirement at maturity or redemption of those outstanding bonds on the date as may be determined by the authority.

(c) Pending this use, the escrowed proceeds may be invested and reinvested in obligations of, or guaranteed by, the United States, or in certificates of deposit or time deposits secured by obligations of, or guaranteed by, the United States, maturing at the time or times appropriate to assure prompt payment, of the principal, interest, and redemption premium, if any, of the outstanding bonds to be 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 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 for use in carrying out the purposes of this article.

(d) The portion of the proceeds of the bonds issued for the additional purpose of paying all, or any part of, the costs of construction and acquiring additions, improvements, extensions, or enlargements of any project may be invested and reinvested in obligations of, or guaranteed by, the United States, or in certificates of deposit or time deposits secured by obligations of, or guaranteed by, the United States, 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 costs. 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 costs or may be used by the authority in carrying out the purposes of this article.

6595.5. 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, 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. These bonds are securities which may 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. This authorization applies only to the extent that there exists evidence of indebtedness or debt securities of the participating party receiving financing through the issuance of these bonds which qualify for, or are eligible for, these purposes and uses.

6595.7. (a) The authority is not required to pay any property taxes or assessments upon, or with respect to, any public capital improvement or any property acquired by, or for, the authority under this article, or upon the income therefrom, so long as the authority holds title to the public capital improvement or to the property contained in the public capital improvement.

(b) The exemption of the authority from taxation of any public capital improvement ceases when title to the property is transferred from the authority to any local agency whose property is otherwise taxable. This section does not exempt any local agency whose property is otherwise taxable from taxation, including, but not limited to, taxation upon a possessory interest, with respect to any public capital improvement, or the property or facilities contained in any public capital improvement which may otherwise be applicable to the participant.

6596. The State of California does hereby pledge to, and agrees with, the holders of any bonds issued under this article, and with those parties who may enter into contracts with the authority pursuant to this article, that the state will not limit or alter the rights hereby vested in the authority to finance any public capital

improvement and to fulfill the terms of any loan agreement, lease, or other contract with the authority pursuant to this part, or in any way impair the rights or remedies of the bonds or of the parties until those bonds, 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 bonds of the authority or those entering into those contracts with the authority.

6597. All public capital improvements financed by the authority shall pay interest within a reasonable time after the authority receives revenues or proceeds from bonds as provided under this article.

6597.5. All public capital improvements financed by the authority shall be constructed or completed subject to the rules and regulations of the authority. When the principal of, and interest on, bonds of the authority issued to finance the cost of a particular public capital improvement, including any refunding bonds issued to refund and refinance all, or any part, of these bonds, have been fully paid and retired, or when adequate provisions have been made for their payment and retirement and all other conditions of any resolution, lease, indenture, mortgage or deed of trust, security interest, or any other instrument 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 the terms and conditions it prescribes, to execute releases, release deeds, reassignments, deeds, and conveyances and to do all things necessary or required to convey or release its rights, title, and interest in the public capital improvement financed and in any other instruments pledged or transferred to secure bonds to local agencies, as their respective interests may appear.

6598. Interest earned on any bonds issued by the authority shall at all times be free from state personal income tax and corporate income tax.

6599. Local agencies may request advice from the California Debt Advisory Commission pursuant to Section 8859 regarding the formation of local bond pooling authorities and the planning, preparing, insuring, marketing, and selling of bonds as authorized pursuant to this article.

SEC. 7. Section 8859 is added to the Government Code, to read:

8859. The commission may, upon request, advise local agencies regarding the formation of local bond pooling authorities pursuant to Article 4 (commencing with Section 6584) of Chapter 5 of Division 7 of Title 1, and may advise the authorities regarding the planning, preparing, insuring, marketing, and selling of bonds as authorized by that article.

SEC. 8. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into

immediate effect. The facts constituting the necessity are:

In order to remove an impediment in existing law so local agencies can engage in certain pooled financing arrangements, as soon as possible, and to reduce the transaction costs of local agencies in financing needed capital improvement projects through various pooled financing arrangements, it is necessary that this act go into immediate effect.

CHAPTER 869

An act to add Sections 1556, 1557, 1557.5, 1569.315, 1569.54, and 1569.545 to the Health and Safety Code, relating to care facilities.

[Approved by Governor September 20, 1985. Filed with Secretary of State September 23, 1985.]

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

SECTION 1. Section 1556 is added to the Health and Safety Code, to read:

1556. (a) If the director determines that it is necessary to temporarily suspend any license, registration, or special permit of a community care facility in order to protect the residents or clients of the facility from physical or mental abuse, abandonment, or any other substantial threat to health or safety, the department shall make every effort to minimize transfer trauma for the residents or clients.

(b) The department shall contact any local agency that may have placement or advocacy responsibility for the residents or clients of a facility after a decision is made to temporarily suspend the license, registration, or special permit of the facility and prior to its implementation. The department shall work with these agencies to locate alternative placement sites and to contact relatives responsible for the care of these clients or residents.

(c) In any case where the department alleges that the clients or residents are in need of, but not receiving proper medical attention, the department shall do all of the following:

(1) Consult with physicians and surgeons about the necessity of immediately removing clients from the facility.

(2) If the department temporarily suspends the license, registration, or special permit of a facility, use physicians and surgeons or other medical personnel deemed appropriate by the department to provide onsite client evaluation.

(3) If the department does not suspend the license, registration, or special permit of a facility, order the licensee to remove only those clients or residents who are in need of proper medical care, as determined by the department, if the department determines that other clients or residents are not in physical danger.

SEC. 2. Section 1557 is added to the Health and Safety Code, to read:

1557. The Auditor General shall report to the Legislature by April 1, 1988, on the implementation of the procedures established in Section 1556.

SEC. 3. Section 1557.5 is added to the Health and Safety Code, to read:

1557.5. Each facility required to be licensed pursuant to this chapter shall keep a current record of clients in the facility, including the client's name and ambulatory status, and the name, address, and telephone number of the client's physician and of any person or agency responsible for the care of the client. The facility shall protect the privacy and confidentiality of this information.

SEC. 4. Section 1569.315 is added to the Health and Safety Code, immediately following Section 1569.31, to read:

1569.315. Each residential care facility for the elderly required to be licensed pursuant to this chapter shall keep a current record of clients in the facility, including the client's name and ambulatory status, and the name, address, and telephone number of the client's physician and of any person or agency responsible for the care of the client. The facility shall protect the privacy and confidentiality of this information.

SEC. 5. Section 1569.54 is added to the Health and Safety Code, to read:

1569.54. (a) If the director determines that it is necessary to temporarily suspend any license of a residential care facility for the elderly in order to protect the residents or clients of the facility from physical or mental abuse, abandonment, or any other substantial threat to health or safety pursuant to Section 1569.50, the department shall make every effort to minimize transfer trauma for the residents or clients.

(b) The department shall contact any local agency that may have placement or advocacy responsibility for the residents or clients of a residential care facility for the elderly after a decision is made to temporarily suspend the license of the facility and prior to its implementation. The department shall work with these agencies to locate alternative placement sites and to contact relatives responsible for the care of these clients or residents.

(c) In any case where the department alleges that the clients or residents are in need of, but not receiving proper medical attention, the department shall do all of the following:

(1) Consult with physicians and surgeons about the necessity of immediately removing clients or residents from the facility.

(2) If the department temporarily suspends the license of a residential care facility for the elderly, use physicians and surgeons or other medical personnel deemed appropriate by the department to provide onsite evaluation of clients or residents.

(3) If the department does not suspend the license of a residential care facility for the elderly, order the licensee to remove only those

clients or residents who are in need of proper medical care, as determined by the department, if the department determines that other clients or residents are not in physical danger.

SEC. 6. Section 1569.545 is added to the Health and Safety Code, to read:

1569.545. The Auditor General shall report to the Legislature by April 1, 1988, on the implementation of the procedures established in Section 1569.54.

SEC. 7. Sections 4, 5, and 6 of this act shall be operative only if Senate Bill 185 of the 1985–86 Regular Session is chaptered and becomes effective on or before January 1, 1986.

SEC. 8. No reimbursement is required by this act pursuant to 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 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. 9. Reimbursement to local agencies and school districts for costs mandated by the state pursuant to this act shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code and, if the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), shall be made from the State Mandates Claims Fund.

CHAPTER 870

An act to amend Section 11470 of the Health and Safety Code, relating to controlled substances.

[Approved by Governor September 20, 1985. Filed with Secretary of State September 23, 1985]

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 14.25 grams or more of heroin, or a substance containing 14.25 grams or more of heroin, or 14.25 grams or more of a substance containing heroin, or 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 cocaine or methamphetamine, or a substance containing 28.5 grams or more of cocaine or methamphetamine, or 57 grams or more of a substance containing cocaine or methamphetamine, or 28.5 grams or more of 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, 11379.6, 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, 11379.6, 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, 11379.6, 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.

CHAPTER 871

An act to amend Section 196 of the Health and Safety Code, relating to Acquired Immune Deficiency Syndrome.

[Approved by Governor September 20, 1985. Filed with Secretary of State September 23, 1985.]

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

SECTION 1. Section 196 of the Health and Safety Code is amended to read:

196. (a) 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:

(1) Two by the Speaker of the Assembly.

(2) Two by the Senate Rules Committee.

(3) Four by the Governor.

(b) In addition to the membership prescribed by subdivision (a), the following persons shall be ex officio members:

(1) The Director of Health Services or a designee shall be a voting member.

(2) The Director of Mental Health, or a designee, a designee, requested to be appointed by the President of the University of California, with knowledge, experience, and responsibility for the university-wide allocation of AIDS research grants, shall be nonvoting members.

(c) The committee shall be abolished effective July 1, 1990, unless extended by subsequent legislative action.

CHAPTER 872

An act to add Part 9.3 (commencing with Section 14600) to the Education Code, relating to the California State Lottery Education Fund.

[Approved by Governor September 20, 1985. Filed with Secretary of State September 23, 1985]

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

SECTION 1. Part 9.3 (commencing with Section 14600) is added to the Education Code, to read:

PART 9.3. THE CALIFORNIA STATE LOTTERY EDUCATION FUND

14600. (a) The Legislature finds and declares that one purpose of the California State Lottery Act of 1984 (Chapter 12.5 (commencing with Section 8880) of Division 1 of Title 2 of the Government Code) was to provide school districts, county offices of education, and community college districts with additional funds free of state control.

(b) In order to further the purpose identified in subdivision (a), the expenditure of funds received by a school district, county office of education, or community college district pursuant to Section 8880.5 of the Government Code shall not be subject to state control.

CHAPTER 873

An act to add Sections 4648.1, 4648.2, and 4690.1 to the Welfare and Institutions Code, relating to developmental disabilities.

[Approved by Governor September 20, 1985 Filed with Secretary of State September 23, 1985.]

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

SECTION 1. Section 4648.1 is added to the Welfare and Institutions Code, to read:

4648.1. (a) The State Department of Developmental Services and regional centers may monitor services purchased for regional center clients with or without prior notice. Monitoring without prior notice shall be limited to situations where the department or regional center determines that the purpose of the visit would be thwarted if advance notice were given. The department may conduct fiscal reviews and audits of the service providers' records.

(b) Department and regional center staff involved in monitoring or auditing services provided to the regional centers' clients by a service provider shall have access to the provider's grounds, buildings, and service program, and to all related records, including books, papers, computerized data, accounting records, and related documentation. All persons connected with the service provider's program, including, but not limited to, program administrators, staff, consultants, and accountants, shall provide information and access to facilities as required by the department or regional center.

(c) The department, in cooperation with regional centers, shall assure that both current providers of services on January 1, 1986, and new providers of services on and after January 1, 1986, that are purchased by regional centers for their clients are informed of all of the following:

(1) The provisions of this section.

(2) The responsibility of service providers to comply with laws and regulations governing both their service program and the provision of services to people with developmental disabilities.

(3) The responsibility of service providers to comply with conditions of any contract or agreement between the regional center and the service provider, and between the service provider and the department.

(4) The rights of service providers established in regulations adopted pursuant to Sections 4648.2, 4748, and 4780.5, to appeal actions taken by regional centers or the department as a result of their monitoring and auditing findings.

(d) A regional center may terminate payments for services, and may terminate its contract or authorization as specified in subdivision (b) of Section 4648 for the purchase of client services if it determines that the service provider has not complied with provisions of its contract or authorization with the regional center or with applicable state laws and regulations. When terminating payments for services or its contract or authorization for the purchase of client services, a regional center shall make reasonable efforts to avoid unnecessary disruptions of client services.

(e) A regional center or the department may recover from the service provider funds paid for services when the department or the regional center determines that either of the following has occurred:

(1) The services were not provided in accordance with the regional center's contract or authorization with the service provider, or with applicable state laws or regulations.

(2) The rate paid is based on inaccurate data submitted by the service provider on a vender cost statement.

Any funds so recovered shall be remitted to the department.

(f) Any evidence of suspected licensing violations found by department or regional center personnel shall be reported immediately to the appropriate state licensing agency.

SEC. 2. Section 4648.2 is added to the Welfare and Institutions Code, to read:

4648.2. By September 1, 1986, the State Department of Developmental Services shall promulgate regulations which establish a process for service providers to appeal actions the department takes as a result of its auditing and monitoring activities. To the extent possible, this process shall include procedures contained in fiscal audit appeals regulations established pursuant to Section 4780.5.

SEC. 3. Section 4690.1 is added to the Welfare and Institutions Code, to read:

4690.1. By March 1, 1986, the department, in consultation with representatives of regional centers and providers of transportation services to regional center clients, shall develop a cost statement to be used in setting rates for providers of transportation services.

CHAPTER 874

An act to amend Section 11018.1 of, to repeal and add Sections 11003, 11003.1, 11003.2, and 11004 of, and to repeal Section 11003.3 of, the Business and Professions Code, to amend Section 1133 of, to add Section 783.1 to, to repeal and add Section 783 of, to repeal and add Title 6 (commencing with Section 1350) of Part 4 of Division 2 of, to repeal Sections 846.6 and 1725 of, and to repeal Chapter 2 (commencing with Section 1730) of Part 4 of Division 3 of, the Civil Code, and to repeal and add Section 374 of the Code of Civil Procedure, relating to land subdivisions.

[Approved by Governor September 21, 1985. Filed with Secretary of State September 23, 1985.]

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

SECTION 1. Section 11003 of the Business and Professions Code is repealed.

SEC. 2. Section 11003 is added to the Business and Professions Code, to read:

11003. "Planned development" has the same meaning as specified in subdivision (k) of Section 1351 of the Civil Code.

SEC. 2.2. Section 11003.1 of the Business and Professions Code is repealed.

SEC. 2.5. Section 11003.1 is added to the Business and Professions Code, to read:

11003.1. "Real estate development" means a common interest development specified in subdivision (c) of Section 1351 of the Civil Code.

SEC. 3. Section 11003.2 of the Business and Professions Code is repealed.

SEC. 4. Section 11003.2 is added to the Business and Professions Code, to read:

11003.2. "Stock cooperative" has the same meaning as specified in subdivision (m) of Section 1351 of the Civil Code, except that, as used in this chapter, a "stock cooperative" does not include a limited-equity housing cooperative.

SEC. 5. Section 11003.3 of the Business and Professions Code is repealed.

SEC. 6. Section 11004 of the Business and Professions Code is repealed.

SEC. 7. Section 11004 is added to the Business and Professions Code, to read:

11004. "Community apartment project" has the same meaning as specified in subdivision (d) of Section 1351 of the Civil Code.

SEC. 7.5. Section 11018.1 of the Business and Professions Code is amended to read:

11018.1. (a) A copy of the public report of the commissioner,

when issued, shall be given to the prospective purchaser by the owner, subdivider or agent prior to the execution of a binding contract or agreement for the sale or lease of any lot or parcel in a subdivision. The requirement of this section extends to lots or parcels offered by the subdivider after repossession. A receipt shall be taken from the prospective purchaser in a form and manner as set forth in regulations of the Real Estate Commissioner.

(b) A copy of the public report shall be given by the owner, subdivider or agent at any time, upon oral or written request, to any member of the public. A copy of the public report and a statement advising that a copy of the public report may be obtained from the owner, subdivider or agent at any time, upon oral or written request, shall be posted in a conspicuous place at any office where sales or leases or offers to sell or lease lots within the subdivision are regularly made.

(c) At the same time that a public report is required to be given by the owner, subdivider, or agent pursuant to subdivision (a) with respect to a real estate development, the owner, subdivider, or agent shall give the prospective purchaser a copy of the following statement:

"COMMON INTEREST DEVELOPMENT GENERAL INFORMATION

The project described in the attached Subdivision Public Report is known as a common-interest development. Read the public report carefully for more information about the type of development. The development includes common areas and facilities which will be owned or operated by an owners' association. Purchase of a lot or unit automatically entitles and obligates you as a member of the association and, in most cases, includes a beneficial interest in the areas and facilities. Since membership in the association is mandatory, you should be aware of the following information before you purchase:

Your ownership in this development and your rights and remedies as a member of its association will be controlled by governing instruments which generally include a Declaration of Restrictions (also known as CC&R's), Articles of Incorporation (or association) and bylaws. The provisions of these documents are intended to be, and in most cases are, enforceable in a court of law. Study these documents carefully before entering into a contract to purchase a subdivision interest.

In order to provide funds for operation and maintenance of the common facilities, the association will levy assessments against your lot or unit. If you are delinquent in the payment of assessments, the association may enforce payment through court proceedings or your lot or unit may be liened and sold through the exercise of a power of sale. The anticipated income and expenses of the association, including the amount that you may expect to pay through assessments, are outlined in the proposed budget. Ask to see a copy

of the budget if the subdivider has not already made it available for your examination.

A homeowner association provides a vehicle for the ownership and use of recreational and other common facilities which were designed to attract you to buy in this development. The association also provides a means to accomplish architectural control and to provide a base for homeowner interaction on a variety of issues. The purchaser of an interest in a common-interest development should contemplate active participation in the affairs of the association. He or she should be willing to serve on the board of directors or on committees created by the board. In short, "they" in a common interest development is "you." Unless you serve as a member of the governing board or on a committee appointed by the board, your control of the operation of the common areas and facilities is limited to your vote as a member of the association. There are actions that can be taken by the governing body without a vote of the members of the association which can have a significant impact upon the quality of life for association members.

Until there is a sufficient number of purchasers of lots or units in a common interest development to elect a majority of the governing body, it is likely that the subdivider will effectively control the affairs of the association. It is frequently necessary and equitable that the subdivider do so during the early stages of development. It is vitally important to the owners of individual subdivision interests that the transition from subdivider to resident-owner control be accomplished in an orderly manner and in a spirit of cooperation.

When contemplating the purchase of a dwelling in a common interest development, you should consider factors beyond the attractiveness of the dwelling units themselves. Study the governing instruments and give careful thought to whether you will be able to exist happily in an atmosphere of cooperative living where the interests of the group must be taken into account as well as the interests of the individual. Remember that managing a common interest development is very much like governing a small community . . . the management can serve you well, but you will have to work for its success."

Failure to provide the statement in accordance with this subdivision shall not be deemed a violation subject to Section 10185.

SEC. 8. Section 783 of the Civil Code is repealed.

SEC. 9. Section 783 is added to the Civil Code, to read:

783. A condominium is an estate in real property described in subdivision (f) of Section 1351. A condominium may, with respect to the duration of its enjoyment, be either (1) an estate of inheritance or perpetual estate, (2) an estate for life, (3) an estate for years, such as a leasehold or a subleasehold, or (4) any combination of the foregoing.

SEC. 10. Section 783.1 is added to the Civil Code, to read:

783.1. In a stock cooperative, as defined in subdivision (m) of Section 1351, both the separate interest, as defined in paragraph (4)

of subdivision (*l*) of Section 1351, and the correlative interest in the stock cooperative corporation, however designated, are interests in real property.

SEC. 11. Section 846.6 of the Civil Code is repealed.

SEC. 12. Section 1133 of the Civil Code is amended to read:

1133. (a) If a lot, parcel, or unit of a subdivision is subject to a blanket encumbrance, as defined in Section 11013 of the Business and Professions Code, but is exempt from a requirement of compliance with Section 11013.2 of the Business and Professions Code, the subdivider, his or her agent, or representative, shall not sell, or lease for a term exceeding five years, the lot, parcel, or unit, nor cause it to be sold, or leased for a term exceeding five years, until the prospective purchaser or lessee of the lot, parcel, or unit has been furnished with and has signed a true copy of the following notice:

BUYER/LESSEE IS AWARE OF THE FACT THAT THE LOT, PARCEL, OR UNIT WHICH HE OR SHE IS PROPOSING TO PURCHASE OR LEASE IS SUBJECT TO A DEED OF TRUST, MORTGAGE, OR OTHER LIEN KNOWN AS A "BLANKET ENCUMBRANCE".

IF BUYER/LESSEE PURCHASES OR LEASES THIS LOT, PARCEL, OR UNIT, HE OR SHE COULD LOSE THAT INTEREST THROUGH FORECLOSURE OF THE BLANKET ENCUMBRANCE OR OTHER LEGAL PROCESS EVEN THOUGH BUYER/LESSEE IS NOT DELINQUENT IN HIS OR HER PAYMENTS OR OTHER OBLIGATIONS UNDER THE MORTGAGE, DEED OF TRUST, OR LEASE.

Date Signature of Buyer or Lessee

(b) "Subdivision," as used in subdivision (a), means improved or unimproved land that is divided or proposed to be divided for the purpose of sale, lease, or financing, whether immediate or future, into two or more lots, parcels, or units and includes a condominium project, as defined in subdivision (f) of Section 1351, a community apartment project, as defined in subdivision (d) of Section 1351, a stock cooperative, as defined in subdivision (m) of Section 1351, and a limited equity housing cooperative, as defined in subdivision (m) of Section 1351.

(c) The failure of the buyer or lessee to sign the notice shall not invalidate any grant, conveyance, lease, or encumbrance.

(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 actual damages, and in addition thereto, shall be guilty of a public offense punishable by a fine in an amount not to exceed five hundred dollars ($500). In an action to enforce such liability or fine, the prevailing party shall be awarded reasonable attorney's fees.

SEC. 13. Title 6 (commencing with Section 1350) of Part 4 of

Division 2 of the Civil Code is repealed.

SEC. 14. Title 6 (commencing with Section 1350) is added to Part 4 of Division 2 of the Civil Code, to read:

TITLE 6. COMMON INTEREST DEVELOPMENTS

1350. This title shall be known and may be cited as the Davis-Stirling Common Interest Development Act.

1351. As used in this title, the following terms have the following meanings:

(a) "Association" means a nonprofit corporation or unincorporated association created for the purpose of managing a common interest development.

(b) "Common area" means the entire common interest development except the separate interests therein.

(c) "Common interest development" means a real property development:

(1) Which consists or will consist of separately owned lots, parcels, areas, or spaces with either or both of the following features:

(A) One or more additional contiguous or noncontiguous lots, parcels, areas, or spaces owned in common by the owners of the separately owned lots, parcels, areas, or spaces.

(B) Mutual, common, or reciprocal interests in, or restrictions upon, all or a portion of these separately owned lots, parcels, areas, or spaces, or both.

(2) And, in which the owners of the separately owned lots, parcels, areas, or spaces have rights, directly or indirectly, to the beneficial use and enjoyment of the lots, parcels, areas, or spaces referred to in subparagraph (A) of paragraph (1) or any one or more of them or portions thereof or interests therein, or the interests or restrictions referred to in subparagraph (B) of paragraph (1).

The estate in a separately or commonly owned lot, parcel, area, or space may be an estate of inheritance or perpetual estate, an estate for life, an estate for years, or any combination of the foregoing.

Either common ownership of the additional contiguous or noncontiguous lots, parcels, or areas referred to in subparagraph (A) of paragraph (1) or the enjoyment of the mutual, common, or reciprocal interests in, or restrictions upon, the separately owned lots, parcels, areas, or spaces pursuant to subparagraph (B) of paragraph (1), or both, may be through ownership of shares of stock or membership in an association or otherwise. Shares of stock, if any exist, shall be deemed to be interests in a common interest development and real estate development for purposes of subdivision (f) of Section 25100 of the Corporations Code.

(d) "Community apartment project" means a common interest development in which an undivided interest in land is coupled with the right of exclusive occupancy of any apartment located thereon.

(e) "Condominium plan" means a plan consisting of (1) a description or survey map of a condominium project, which shall

refer to or show monumentation on the ground, (2) a three-dimensional description of a condominium project, one or more dimensions of which may extend for an indefinite distance upwards or downwards, in sufficient detail to identify the common areas and each separate interest, and (3) a certificate consenting to the recordation of the condominium plan pursuant to this title signed and acknowledged by the record owner of fee title to that property included in the condominium project. In the case of a condominium project which will terminate upon the termination of an estate for years, the certificate shall be signed and acknowledged by all lessors and lessees of the estate for years and, in the case of a condominium project subject to a life estate, the certificate shall be signed and acknowledged by all life tenants and remainder interests. The certificate shall also be signed and acknowledged by either the trustee or the beneficiary of each recorded deed of trust, and the mortgagee of each recorded mortgage encumbering the property. Owners of mineral rights, easements, rights-of-way, and other nonpossessory interests do not need to sign the condominium plan. A condominium plan may be amended or revoked by a subsequently acknowledged recorded instrument executed by all the persons whose signatures would be required to record a condominium plan pursuant to this subdivision.

(f) A "condominium project" means a common interest development consisting of condominiums. A condominium consists of an undivided interest in common in a portion of real property coupled with a separate interest in space called a unit, the boundaries of which are described on a recorded final map, parcel map, or condominium plan in sufficient detail to locate all boundaries thereof. The area within these boundaries may be filled with air, earth, or water, or any combination thereof, and need not be physically attached to land except by easements for access and, if necessary, support. The description of the unit may refer to (i) boundaries described in the recorded final map, parcel map, or condominium plan, (ii) physical boundaries, either in existence, or to be constructed, such as walls, floors, and ceilings of a structure or any portion thereof, (iii) an entire structure containing one or more units, or (iv) any combination thereof. The portion or portions of the real property held in undivided interest may be all of the real property, except for the separate interests, or may include a particular three-dimensional portion thereof, the boundaries of which are described on a recorded final map, parcel map, or condominium plan. The area within these boundaries may be filled with air, earth, or water, or any combination thereof, and need not be physically attached to land except by easements for access and, if necessary, support. An individual condominium within a condominium project may include, in addition, a separate interest in other portions of the real property.

(g) "Declarant" means the person or group of persons designated in the declaration as declarant, or if no declarant is designated, the

person or group of persons who sign the original declaration or who succeed to special rights, preferences, or privileges designated in the declaration as belonging to the signator of the original declaration.

(h) "Declaration" means the document, however denominated, which contains the information required by Section 1353.

(i) "Exclusive use common area" means a portion of the common areas designated by the declaration for the exclusive use of one or more, but fewer than all, of the owners of the separate interests and which is or will be appurtenant to the separate interest or interests.

Unless the declaration otherwise provides, any shutters, awnings, window boxes, doorsteps, stoops, porches, balconies, patios, exterior doors, door frames, and hardware incident thereto, screens and windows or other fixtures designed to serve a single separate interest, but located outside the boundaries of the separate interest, are exclusive use common areas allocated exclusively to that separate interest.

(j) "Governing documents" means the declaration and any other documents, such as bylaws, operating rules of the association, articles of incorporation, or articles of association, which govern the operation of the common interest development or association.

(k) "Planned development" means a common interest development (other than a community apartment project, a condominium project, or a stock cooperative) having either or both of the following features:

(1) Any contiguous or noncontiguous lots, parcels, or areas in which owners of separately owned lots, parcels, or areas are owners in common, possessing appurtenant rights to the beneficial use and enjoyment of the commonly owned property.

(2) A power exists in the association to enforce an obligation of an owner of a separately owned lot, parcel, or area with respect to the beneficial use and enjoyment by means of an assessment which may become a lien upon the separately owned lot, parcel, or area in accordance with Section 1367.

(*l*) "Separate interest" has the following meanings:

(1) In a community apartment project, "separate interest" means the exclusive right to occupy an apartment, as specified in subdivision (d).

(2) In a condominium project, "separate interest" means an individual unit, as specified in subdivision (f).

(3) In a planned development, "separate interest" means a separately owned lot, parcel, or area, as specified, in subdivision (k).

(4) In a stock cooperative, "separate interest" means the exclusive right to occupy a portion of the real property, as specified in subdivision (m).

Unless the declaration or condominium plan, if any exists, otherwise provides, if walls, floors, or ceilings are designated as boundaries of a separate interest, the interior surfaces of the perimeter walls, floors, ceilings, windows, doors, and outlets located within the separate interest are part of the separate interest and any

other portions of the walls, floors, or ceilings are part of the common areas.

(m) "Stock cooperative" means a common interest development in which a corporation is formed or availed of primarily for the purpose of holding title to, either in fee simple or for a term of years, improved real property, and all or substantially all of the shareholders of the corporation receive a right of exclusive occupancy in a portion of the real property, title to which is held by the corporation. The owners' interest in the corporation, whether evidenced by a share of stock, a certificate of membership, or otherwise, shall be deemed to be an interest in a common interest development and a real estate development for purposes of subdivision (f), Section 25100 of the Corporations Code.

A "stock cooperative" includes a limited equity housing cooperative which is a stock cooperative that meets the criteria of Section 33007.5 of the Health and Safety Code.

1352. This title applies and a common interest development is created whenever a separate interest coupled with an interest in the common area or membership in the association is conveyed, provided, all of the following are recorded:

(a) A declaration.

(b) A condominium plan, if any exists.

(c) A final map or parcel map, if Division 2 (commencing with Section 66410) of Title 7 of the Government Code requires the recording of either a final map or parcel map for the common interest development.

1353. (a) The declaration shall contain a legal description of the common interest development, and a statement that the common interest development is a community apartment project, condominium project, planned development, stock cooperative, or combination thereof. The declaration shall additionally set forth the name of the association and the restrictions on the use or enjoyment of any portion of the common interest development that are intended to be enforceable equitable servitudes.

(b) The declaration may contain any other matters the original signator of the declaration or the owners consider appropriate.

1354. The covenants and restrictions in the declaration shall be enforceable equitable servitudes, unless unreasonable, and shall inure to the benefit of and bind all owners of separate interests in the project. Unless the declaration states otherwise, these servitudes may be enforced by any owner of a separate interest or by the association, or by both.

1355. The declaration may be amended pursuant to the governing documents or this title. Except as provided in Section 1356, an amendment is effective after (1) the approval of the percentage of owners required by the governing documents has been given, (2) that fact has been certified in a writing executed and acknowledged by the officer designated in the declaration or by the association for that purpose, or if no one is designated, by the

president of the association, and (3) that writing has been recorded in each county in which a portion of the common interest development is located.

1356. (a) If in order to amend a declaration, the declaration requires owners having more than 50 percent of the votes in the association, in a single class voting structure, or owners having more than 50 percent of the votes in more than one class in a voting structure with more than one class, to vote in favor of the amendment, the association, or any owner of a separate interest, may petition the superior court of the county in which the common interest development is located for an order reducing the percentage of the affirmative votes necessary for such an amendment. The petition shall describe the effort that has been made to solicit approval of the association members in the manner provided in the declaration, the number of affirmative and negative votes actually received, the number or percentage of affirmative votes required to effect the amendment in accordance with the existing declaration, and other matters the petitioner considers relevant to the court's determination. The petition shall also contain, as exhibits thereto, copies of all of the following:

(1) The governing documents.

(2) A complete text of the amendment.

(3) Copies of any notice and solicitation materials utilized in the solicitation of owner approvals.

(4) A short explanation of the reason for the amendment.

(5) Any other documentation relevant to the court's determination.

(b) Upon filing the petition, the court shall set the matter for hearing and issue an ex parte order setting forth the manner in which notice shall be given.

(c) The court may, but shall not be required to, grant the petition if it finds all of the following:

(1) The petitioner has given not less than 15 days written notice of the court hearing to all members of the association, to any mortgagee of a mortgage or beneficiary of a deed of trust who is entitled to notice under the terms of the declaration, and to the city, county, or city and county in which the common interest development is located that is entitled to notice under the terms of the declaration.

(2) Balloting on the proposed amendment was conducted in accordance with all applicable provisions of the governing documents.

(3) A reasonably diligent effort was made to permit all eligible members to vote on the proposed amendment.

(4) Owners having more than 50 percent of the votes, in a single class voting structure, voted in favor of the amendment. In a voting structure with more than one class, where the declaration requires a majority of more than one class to vote in favor of the amendment, owners having more than 50 percent of the votes of each class

required by the declaration to vote in favor of the amendment voted in favor of the amendment.

(5) The amendment is reasonable.

(6) Granting the petition is not improper for any reason stated in subdivision (d).

(d) If the court makes the findings required by subdivision (c), any order issued pursuant to this section may confirm the amendment as being validly approved on the basis of the affirmative votes actually received during the balloting period or the order may dispense with any requirement relating to quorums or to the number or percentage of votes needed for approval of the amendment that would otherwise exist under the governing documents.

(e) Subdivisions (a) to (d), inclusive, notwithstanding, the court shall not be empowered by this section to approve any amendment to the declaration that:

(1) Would change provisions in the declaration requiring the approval of owners having more than 50 percent of the votes in more than one class to vote in favor of an amendment, unless owners having more than 50 percent of the votes in each affected class approved the amendment.

(2) Would eliminate any special rights, preferences, or privileges designated in the declaration as belonging to the declarant, without the consent of the declarant.

(3) Would impair the security interest of a mortgagee of a mortgage or the beneficiary of a deed of trust without the approval of the percentage of the mortgagees and beneficiaries specified in the declaration, if the declaration requires the approval of a specified percentage of the mortgagees and beneficiaries.

(f) An amendment is not effective pursuant to this section until the court order and amendment have been recorded in every county in which a portion of the common interest development is located. The amendment may be acknowledged by, and the court order and amendment may be recorded by, any person designated in the declaration or by the association for that purpose, or if no one is designated for that purpose, by the president of the association. Upon recordation of the amendment and court order, the declaration, as amended in accordance with this section, shall have the same force and effect as if the amendment were adopted in compliance with every requirement imposed by the governing documents.

(g) Within a reasonable time after the amendment is recorded the association shall mail a copy of the amendment to each member of the association, together with a statement that the amendment has been recorded.

1357. (a) The Legislature finds that there are common interest developments that have been created with deed restrictions which do not provide a means for the property owners to extend the term of the declaration. The Legislature further finds that covenants and restrictions, contained in the declaration, are an appropriate method for protecting the common plan of developments and to provide for

a mechanism for financial support for the upkeep of common areas including, but not limited to, roofs, roads, heating systems, and recreational facilities. If declarations terminate prematurely, common interest developments may deteriorate and the housing supply of affordable units could be impacted adversely.

The Legislature further finds and declares that it is in the public interest to provide a vehicle for extending the term of the declaration if owners having more than 50 percent of the votes in the association choose to do so.

(b) A declaration which specifies a termination date, but which contains no provision for extension of the termination date, may be extended by the approval of owners having more than 50 percent of the votes in the association or any greater percentage specified in the declaration for an amendment thereto. If the approval of owners having more than 50 percent of the votes in the association is required to amend the declaration, the term of the declaration may be extended in accordance with Section 1356.

(c) Any amendment to a declaration made in accordance with subdivision (b) shall become effective upon recordation in accordance with Section 1355.

(d) No single extension of the terms of the declaration made pursuant to this section shall exceed the initial term of the declaration or 20 years, whichever is less. However, more than one extension may occur pursuant to this section.

1358. (a) In a community apartment project, any conveyance, judicial sale, or other voluntary or involuntary transfer of the separate interest includes the undivided interest in the community apartment project. Any conveyance, judicial sale, or other voluntary or involuntary transfer of the owner's entire estate also includes the owner's membership interest in the association.

(b) In a condominium project the common areas are not subject to partition, except as provided in Section 1359. Any conveyance, judicial sale, or other voluntary or involuntary transfer of the separate interest includes the undivided interest in the common areas. Any conveyance, judicial sale, or other voluntary or involuntary transfer of the owner's entire estate also includes the owner's membership interest in the association.

(c) In a planned development, any conveyance, judicial sale, or other voluntary or involuntary transfer of the separate interest includes the undivided interest in the common areas, if any exist. Any conveyance, judicial sale, or other voluntary or involuntary transfer of the owner's entire estate also includes the owner's membership interest in the association.

(d) In a stock cooperative, any conveyance, judicial sale, or other voluntary or involuntary transfer of the separate interest includes the ownership interest in the corporation, however evidenced. Any conveyance, judicial sale, or other voluntary or involuntary transfer of the owner's entire estate also includes the owner's membership interest in the association.

Nothing in this section prohibits the transfer of exclusive use areas, independent of any other interest in a common interest subdivision, if authorization to separately transfer exclusive use areas is expressly stated in the declaration and the transfer occurs in accordance with the terms of the declaration.

Any restrictions upon the severability of the component interests in real property which are contained in the declaration shall not be deemed conditions repugnant to the interest created within the meaning of Section 711 of the Civil Code. However, these restrictions shall not extend beyond the period in which the right to partition a project is suspended under Section 1359.

1359. (a) Except as provided in this section, the common areas in a condominium project shall remain undivided, and there shall be no judicial partition thereof. Nothing in this section shall be deemed to prohibit partition of a cotenancy in a condominium.

(b) The owner of a separate interest in a condominium project may maintain a partition action as to the entire project as if the owners of all of the separate interests in the project were tenants in common in the entire project in the same proportion as their interests in the common areas. The court shall order partition under this subdivision only by sale of the entire condominium project and only upon a showing of one of the following:

(1) More than three years before the filing of the action, the condominium project was damaged or destroyed, so that a material part was rendered unfit for its prior use, and the condominium project has not been rebuilt or repaired substantially to its state prior to the damage or destruction.

(2) Three-fourths or more of the project is destroyed or substantially damaged and owners of separate interests holding in the aggregate more than a 50-percent interest in the common areas oppose repair or restoration of the project.

(3) The project has been in existence more than 50 years, is obsolete and uneconomic, and owners of separate interests holding in the aggregate more than a 50-percent interest in the common area oppose repair or restoration of the project.

(4) The conditions for such a sale, set forth in the declaration, have been met.

1360. (a) Subject to the provisions of the governing documents and other applicable provisions of law, if the boundaries of the separate interest are contained within a building, the owner of the separate interest may do the following:

(1) Make any improvements or alterations within the boundaries of his or her separate interest that do not impair the structural integrity or mechanical systems or lessen the support of any portions of the common interest development.

(2) Modify a unit in a condominium project, at the owner's expense, to facilitate access for persons who are blind, visually handicapped, deaf, or physically disabled, or to alter conditions which could be hazardous to these persons. These modifications may

also include modifications of the route from the public way to the door of the unit for the purposes of this paragraph if the unit is on the ground floor or already accessible by an existing ramp or elevator. The right granted by this paragraph is subject to the following conditions:

(A) The modifications shall be consistent with applicable building code requirements.

(B) The modifications shall be consistent with the intent of otherwise applicable provisions of the governing documents pertaining to safety or aesthetics.

(C) Modifications external to the dwelling shall not prevent reasonable passage by other residents, and shall be removed by the owner when the unit is no longer occupied by persons requiring those modifications who are blind, visually handicapped, deaf, or physically disabled.

(D) Any owner who intends to modify a unit pursuant to this paragraph shall submit his or her plans and specifications to the association of the condominium project for review to determine whether the modifications will comply with the provisions of this paragraph. The association shall not deny approval of the proposed modifications under this paragraph without good cause.

(b) Any change in the exterior appearance of a separate interest shall be in accordance with the governing documents and applicable provisions of law.

1361. Unless the declaration otherwise provides:

(a) In a community apartment project and condominium project, and in those planned developments with common areas owned in common by the owners of the separate interests, there are appurtenant to each separate interest nonexclusive rights of ingress, egress, and support, if necessary, through the common areas. The common areas are subject to these rights.

(b) In a stock cooperative, and in a planned development with common areas owned by the association, there is an easement for ingress, egress, and support, if necessary, appurtenant to each separate interest. The common areas are subject to these easements.

1362. Unless the declaration otherwise provides, in a condominium project, or in a planned development in which the common areas are owned by the owners of the separate interests, the common areas are owned as tenants in common, in equal shares, one for each unit or lot.

1363. A common interest development shall be managed by an association which may be incorporated or unincorporated. Unless the governing documents provide otherwise, and regardless of whether the association is incorporated or unincorporated, the association may exercise the powers granted to a nonprofit mutual benefit corporation, as enumerated in Section 7140 of the Corporations Code, except that an unincorporated association may not adopt or use a corporate seal or issue membership certificates in accordance with Section 7313 of the Corporations Code. An

association, whether incorporated or unincorporated, may exercise the powers granted to an association by Section 374 of the Code of Civil Procedure and the powers granted to the association in this title.

An association, whether incorporated or unincorporated, shall prepare a budget pursuant to Section 1365 and disclose information, if requested, in accordance with Section 1368.

1364. Unless otherwise provided in the declaration, the association is responsible for maintaining the common areas, other than exclusive use common areas, and the owner of each separate interest is responsible for maintaining that separate interest and any exclusive use common areas appurtenant to that separate interest.

1365. Unless the declaration imposes more stringent standards, financial statements shall be prepared by the association and distributed to all its members as follows:

(a) A pro forma operating budget shall be distributed not less than 45 days nor more than 60 days prior to the beginning of the association's fiscal year. The budget shall include all of the following:

(1) The estimated revenue and expenses on an accrual basis.

(2) The identification of the total cash reserves currently set aside.

(3) The identification of the estimated remaining life of, and the methods of funding used to defray the future repair, replacement, or additions to, those major components which the association is obligated to maintain.

(4) 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 the association is obligated to maintain.

(b) 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.

(c) A statement describing the association's policies and practices in enforcing lien rights or other legal remedies for default in payment of its assessments against its members shall be annually delivered to the members during the 60-day period immediately preceding the beginning of the association's fiscal year.

1366. (a) Unless otherwise provided in the declaration, the association shall levy regular and special assessments sufficient to perform its obligations under the governing documents and this title.

(b) In addition to any limitations placed on the board by the governing documents, the board of directors of the association may not impose, except as provided in this subdivision, a regular assessment that is more than 10 percent greater than the regular assessment for the association's preceding fiscal year or impose special assessments which in the aggregate exceed 5 percent of the

budgeted gross expenses of the association for that fiscal year without the approval of owners casting a majority of the votes at a meeting or election of the association conducted in accordance with Chapter 5 (commencing with Section 7510) of Part 3 of Division 2 of Title 1 of the Corporations Code and Section 7613 of the Corporations Code.

The provisions of this subdivision do not limit assessment increases for the following purposes:

(1) The maintenance or repair of the common areas or other areas which the association is obligated to maintain or repair, including, but not limited to, the payment of insurance premiums, the payment of utility bills, the costs incurred in maintaining or repairing structures or improvements, and funding reserves.

(2) Addressing emergency situations.

(c) Regular and special assessments levied pursuant to the governing documents are delinquent 15 days after they become due. If an assessment is delinquent the association may recover all of the following:

(1) Reasonable costs incurred in collecting the delinquent assessment, including reasonable attorney's fees.

(2) A late charge not exceeding 10 percent of the delinquent assessment or ten dollars ($10), whichever is greater, unless the declaration specifies a late charge in a smaller amount, in which case any late charge imposed shall not exceed the amount specified in the declaration.

(3) Interest on all sums imposed in accordance with this section, including the delinquent assessment, reasonable costs of collection, and late charges, at an annual percentage rate not to exceed 12 percent interest, commencing 30 days after the assessment becomes due.

(d) Associations are hereby exempted from interest-rate limitations imposed by Article XV of the California Constitution, subject to the limitations of this section.

1367. (a) A regular or special assessment and any late charges, reasonable costs of collection, and interest, as assessed in accordance with Section 1366, shall be a debt of the owner of the separate interest at the time the assessment or other sums are levied.

(b) The amount of the assessment, plus any costs of collection, late charges, and interest assessed in accordance with Section 1366, shall be a lien on the owner's interest in the common interest development from and after the time the association causes to be recorded with the county recorder of the county in which the separate interest is located, a notice of delinquent assessment, which shall state the amount of the assessment and other sums imposed in accordance with Section 1366, a description of the owner's interest in the common interest development against which the assessment and other sums are levied, the name of the record owner of the owner's interest in the common interest development against which the lien is imposed, and, in order for the lien to be enforced by nonjudicial foreclosure as provided in subdivision (d) the name and

address of the trustee authorized by the association to enforce the lien by sale. The notice of delinquent assessment shall be signed by the person designated in the declaration or by the association for that purpose, or if no one is designated, by the president of the association. Upon payment of the sums specified in the notice of delinquent assessment, the association shall cause to be recorded a further notice stating the satisfaction and release of the lien thereof.

(c) A lien created pursuant to subdivision (b) shall be prior to all other liens recorded subsequent to the notice of assessment, except that the declaration may provide for the subordination thereof to any other liens and encumbrances.

(d) A lien created pursuant to subdivision (b) may be enforced in any manner permitted by law, including sale by the court, sale by the trustee designated in the notice of delinquent assessment, or sale by a trustee substituted pursuant to Section 2934a. Any sale by the trustee shall be conducted in accordance with the provisions of Sections 2924, 2924b, and 2924c applicable to the exercise of powers of sale in mortgages and deeds of trusts.

(e) Nothing in this section or in subdivision (a) of Section 726 of the Code of Civil Procedure prohibits actions against the owner of a separate interest to recover sums for which a lien is created pursuant to this section or prohibits an association from taking a deed in lieu of foreclosure.

1368. (a) Except as provided in subdivision (c), the owner of a separate interest shall, as soon as practicable before transfer of title or execution of a real property sales contract therefor, as defined in Section 2985, provide the following to the prospective purchaser:

(1) A copy of the governing documents of the common interest development.

(2) A copy of the most recent financial statement distributed pursuant to Section 1365.

(3) A true statement in writing from an authorized representative of the association as to the amount of any assessments levied upon the owner's interest in the common interest development which are unpaid on the date of the statement. The statement shall also include true information on late charges, interest, and costs of collection which, as of the date of the statement, are or may be made a lien upon the owner's interest in a common interest development pursuant to Section 1367.

(b) Upon written request, an association shall, within 10 days of the mailing or delivery of the request, provide the owner of a separate interest with a copy of the requested items specified in paragraphs (1), (2), and (3) of subdivision (a). The association may charge a fee for this service, which shall not exceed the association's reasonable cost to prepare and reproduce the requested items.

(c) Any person or entity who willfully violates this section shall be liable to the purchaser of a separate interest which is subject to this section for actual damages occasioned thereby and, in addition, shall pay a civil penalty in an amount not to exceed five hundred dollars

($500). In an action to enforce this liability, the prevailing party shall be awarded reasonable attorneys' fees.

(d) Nothing in this section affects the validity of title to real property transferred in violation of this section.

(e) In addition to the requirements of this section, an owner transferring title to a separate interest shall comply with applicable requirements of Sections 1133 and 1134.

1369. In a condominium project, no labor performed or services or materials furnished with the consent of, or at the request of, an owner in the condominium project or his or her agent or his or her contractor shall be the basis for the filing of a lien against any other property of any other owner in the condominium project unless that other owner has expressly consented to or requested the performance of the labor or furnishing of the materials or services. However, express consent shall be deemed to have been given by the owner of any condominium in the case of emergency repairs thereto. Labor performed or services or materials furnished for the common areas, if duly authorized by the association, shall be deemed to be performed or furnished with the express consent of each condominium owner. The owner of any condominium may remove his or her condominium from a lien against two or more condominiums or any part thereof by payment to the holder of the lien of the fraction of the total sum secured by the lien which is attributable to his or her condominium.

1370. Any deed, declaration, or condominium plan for a common interest development shall be liberally construed to facilitate the operation of the common interest development, and its provisions shall be presumed to be independent and severable. Nothing in Article 3 (commencing with Section 715) of Chapter 2 of Title 2 of Part 1 of this division shall operate to invalidate any provisions of the governing documents of a common interest development.

1371. In interpreting deeds and condominium plans, the existing physical boundaries of a unit in a condominium project, when the boundaries of the unit are contained within a building, or of a unit reconstructed in substantial accordance with the original plans thereof, shall be conclusively presumed to be its boundaries rather than the metes and bounds expressed in the deed or condominium plan, if any exists, regardless of settling or lateral movement of the building and regardless of minor variance between boundaries shown on the plan or in the deed and those of the building.

1372. Unless a contrary intent is clearly expressed, local zoning ordinances shall be construed to treat like structures, lots, parcels, areas, or spaces in like manner regardless of whether the common interest development is a community apartment project, condominium project, planned development, or stock cooperative.

SEC. 15. Section 1725 of the Civil Code is repealed.

SEC. 16. Chapter 2 (commencing with Section 1730) of Part 4 of Division 3 of the Civil Code is repealed.

SEC. 17. Section 374 of the Code of Civil Procedure is repealed.

SEC. 18. Section 374 is added to the Code of Civil Procedure, to read:

374. An association established to manage a common interest development pursuant to Section 1363 of the Civil Code shall have standing to institute, defend, settle, or intervene in litigation, arbitration, mediation, or administrative proceedings in its own name as the real party in interest and without joining with it the individual owners of the common interest development, in matters pertaining to the following:

(a) Enforcement of the governing documents.

(b) Damage to the common areas.

(c) Damage to the separate interests which the association is obligated to maintain or repair.

(d) Damage to the separate interests which arises out of, or is integrally related to, damage to the common areas or separate interests that the association is obligated to maintain or repair.

CHAPTER 875

An act to amend Section 1952.3 of the Code of Civil Procedure, to amend Sections 1420 and 1421 of, to amend the heading of Chapter 14 (commencing with Section 1420) of Title 10 of Part 2 of, and to repeal and add Chapter 13 (commencing with Section 1417) of Title 10 of Part 2 of, the Penal Code, relating to judicial proceedings.

[Approved by Governor September 21, 1985. Filed with Secretary of State September 23, 1985.]

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

SECTION 1. Section 1952.3 of the Code of Civil Procedure is amended to read:

1952.3. Notwithstanding any other provision of the law, the court, on its own motion, may order the destruction or other disposition of any exhibit or deposition introduced in the trial of a civil action or proceeding or filed in the action or proceeding that, if appeal has not been taken from the decision of the court in the action or proceeding, remains in the custody of the court or clerk five years after time for appeal has expired, or, if appeal has been taken, remains in the custody of the court or clerk five years after final determination thereof, or that remains in the custody of the court or clerk for a period of five years after any of the following:

(a) A motion for a new trial has been granted and a memorandum to set the case for trial has not been filed, or a motion to set for trial has not been made within five years.

(b) The filing of a remittitur, if the action or proceeding, after appeal, has been remanded to the trial court for a new trial and has not been brought to trial within five years from the filing date of the

remittitur.

(c) The dismissal of the action or proceeding.

In addition, the court on its own motion, may order the destruction or other disposition of any exhibit or deposition that remains in the custody of the court or clerk for a period of 10 years after the introduction or filing of the action or proceeding if, in the discretion of the court, the exhibitor deposition should be disposed of or destroyed.

The order shall be entered in the register of actions of each case in which the order is made.

No exhibit or deposition shall be ordered destroyed or otherwise disposed of pursuant to the provisions of this section if a party to the action or proceeding files a written notice with the court requesting the preservation of any exhibit or deposition for a stated time, but not to exceed one year. The exhibit or deposition may be destroyed after that time unless another notice is filed.

Any sealed file shall be retained for at least two years after the date on which destruction would otherwise be authorized pursuant to this section.

SEC. 2. Chapter 13 (commencing with Section 1417) of Title 10 of Part 2 of the Penal Code is repealed.

SEC. 3. Chapter 13 (commencing with Section 1417) is added to Title 10 of Part 2 of the Penal Code, to read:

CHAPTER 13. DISPOSITION OF EVIDENCE IN CRIMINAL CASES

1417. All exhibits which have been introduced or filed in any criminal action or proceeding shall be retained by the clerk of the court subject to Sections 1417.2 and 1417.3 until final determination of the action or proceedings and the exhibits shall thereafter be distributed or disposed of as provided in this chapter.

1417.1. No order shall be made for the destruction of an exhibit prior to the final determination of the action or proceeding. For the purposes of this chapter, the date when a criminal action or proceeding becomes final is as follows:

(a) When no notice of appeal is filed, 30 days after the last day for filing that notice.

(b) When a notice of appeal is filed, 30 days after the date the clerk of the court receives the remittitur affirming the judgment.

(c) When an order for a rehearing, a new trial, or other proceeding is granted and the ordered proceedings have not been commenced within one year thereafter, one year after the date of that order.

(d) In cases where the death penalty is imposed, 30 days after the date of execution of sentence.

1417.2. Notwithstanding Section 1417.5, the court may, on application of the party entitled thereto or an agent designated in writing by the owner, order an exhibit delivered to that party at any time prior to the final determination of the action or proceeding,

upon stipulation of the parties or upon notice and motion if both of the following requirements are met:

(a) No prejudice will be suffered by either party.

(b) A full and complete photographic record is made of the exhibits so released.

The party to whom the exhibit is being returned shall provide the photographic record. This section shall not apply to any material, the release of which is prohibited by Section 1417.6.

1417.3. At any time prior to the final determination of the action or proceeding, exhibits offered by the state shall be returned to the state by order of court when an exhibit poses a security, storage, safety, or health problem. If an exhibit by its nature is severable the court may order the clerk to retain a portion of the exhibit not exceeding three pounds by weight or one cubic foot by volume and shall order the return of the balance of the exhibit to the district attorney. The clerk, upon court order, shall substitute a full and complete photographic record of any exhibit or part of any exhibit returned to the state under this section. The party to whom the exhibit is being returned shall provide the photographic record.

1417.5. Except as provided in Section 1417.6, 60 days after the final determination of a criminal action or proceeding the clerk of the court shall dispose of all exhibits introduced or filed in the case and remaining in the clerk's possession, as follows:

(a) The court shall, on application of the owner or any person entitled to possession of the exhibits or an agent designated in writing by the owner, order the release of any exhibits that will not prejudice the state.

(b) If the party entitled to an exhibit fails to apply for the return of the exhibit prior to the date for disposition under this section, the following procedures shall apply:

(1) When the exhibit consists of property which is stolen or embezzled, other than money, the exhibit shall be returned by the clerk to the arresting agency for disposition pursuant to Chapter 12 (commencing with Section 1407).

(2) When the exhibit consists of property, other than property which is stolen or embezzled or money, the property shall, except as otherwise provided in this paragraph, be transferred to the appropriate county agency for sale to the public in the same manner provided by Article 7 (commencing with Section 25500) of Chapter 5 of Part 2 of Division 2 of Title 3 of the Government Code for the sale of surplus personal property. If the county determines that any property is needed for a public use, the property may be retained by the county and need not be sold.

(3) When the exhibit consists of money or currency and is unclaimed, it shall be disposed of pursuant to Section 1420.

1417.6. The provisions of Section 1417.5 shall not apply to any dangerous or deadly weapons, narcotic or poisonous drugs, explosives, or any property of any kind or character whatsoever the possession of which is prohibited by law and which was used by a

defendant in the commission of the crime of which the defendant was convicted, or with which the defendant was armed or which the defendant had upon his or her person at the time of the defendant's arrest.

Any of this property introduced or filed as an exhibit shall be, by order of the trial court, destroyed or otherwise disposed of under the conditions provided in the order no sooner than 60 days following the final determination of the criminal action or proceeding.

1417.7. Not less than 15 days before any proposed disposition of an exhibit pursuant to Section 1417.3, 1417.5, or 1417.6, the court shall notify the district attorney (or other prosecuting attorney), the attorney of record for each party, and each party who is not represented by counsel of the proposed disposition. Before the disposition, any party, at his or her own expense, may cause to be prepared a photographic record of all or part of the exhibit by a person who is not a party or attorney of a party. The clerk of the court shall observe the taking of the photographic record and, upon receipt of a declaration of the person making the photographic record that the copy and negative of the photograph delivered to the clerk is a true, unaltered, and unretouched print of the photographic record taken in the presence of the clerk and the clerk shall certify the photographic record as such without charge and retain it unaltered for a period of 60 days following the final determination of the criminal action or proceeding. A certified photographic record of exhibits shall be deemed a certified copy of a writing in official custody pursuant to Section 1507 of the Evidence Code.

SEC. 4. The heading of Chapter 14 (commencing with Section 1420) of Title 10 of Part 2 of the Penal Code is amended to read:

CHAPTER 14. DISPOSITION OF UNCLAIMED MONEY HELD BY DISTRICT ATTORNEY OR COURT CLERK

SEC. 5. Section 1420 of the Penal Code is amended to read:

1420. All money received by a district attorney or clerk of the court in any criminal action or proceeding, the owner or owners of which are unknown, and which remains unclaimed in the possession of the district attorney or clerk of the court after final judgment in the criminal action or proceeding, shall be deposited with the county treasurer. Upon the expiration of two years after the deposit, the county treasurer shall cause a notice pursuant to Section 1421 to be published in the county once a week for two successive weeks in a newspaper of general circulation published in the county.

SEC. 6. Section 1421 of the Penal Code is amended to read:

1421. The notice shall state the amount of money, the criminal action or proceeding in which the money was received by the district attorney or clerk of the court, the fund in which it is held and that it is proposed that the money will become the property of the county on a designated date not less than 45 days nor more than 60 days after the first publication of the notice.

SEC. 7. Pursuant to Section 17579 of the Government Code, the Legislature finds that there is no mandate contained in this act which will result in costs incurred by a local agency or school district for a new program or higher level of service which require reimbursement pursuant to Section 6 of Article XIII B of the California Constitution and Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

CHAPTER 876

An act to amend Sections 6893, 6894.10, 6915, 6915.1, 6916, 6922, 6950, 7500.1, 7503, 7503.5, 7504, 7505.3, 7506.5, 7506.8, 7508.2, 7508.4, 7510.1, 7511, 7515, 7517.2, 7522, 7523, 7525.1, 7537, 7546, 7546.2, 7546.8, 7547.4, 7548, 7550.32, 7552.9, 7553.5, 7558.5, 7560, 7570, 7590.3, 7591.18, 7591.19, 7592.4, 7593.2, 7593.3, 7593.4, 7594.3, 7596.7, 7597.6, 7598.6, 7599, 7599.6, and 7599.70 of the Business and Professions Code, and to amend Section 4 of Chapter 772 of the Statutes of 1978, relating to business and professions, and making an appropriation therefor.

[Approved by Governor September 21, 1985 Filed with Secretary of State September 23, 1985.]

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

SECTION 1. Section 6893 of the Business and Professions Code is amended to read:

6893. Every qualification certificate issued under this chapter on or after January 1, 1986, shall expire on the last day of the month one year following the date of issuance. Every qualification certificate issued under this chapter prior to January 1, 1986, shall expire on the last day of the month in which the birthday of the qualification certificate holder occurs. A person desiring continuation of his or her qualification certificate shall apply for continuation of the certificate on a form prescribed by the director, and pay the continuation fee prescribed by this chapter. If the holder of the certificate fails to request continuation and pay the fee within the time fixed, the certificate shall automatically lapse, but may be reinstated if, within one year after it has lapsed, the holder of the lapsed certificate applies for reinstatement and pays the reinstatement fee prescribed by this chapter.

An active qualification certificate may not be continued or reinstated if the holder thereof ceases to engage or be employed in the collection agency business for a continuous period of five years or more exclusive of time spent in active service in the United States military service or armed forces.

Reinstatement of a lapsed certificate shall not prohibit the bringing of disciplinary proceedings against the holder of the certificate.

SEC. 2. Section 6894.10 of the Business and Professions Code is amended to read:

6894.10. Every registration issued under this chapter on or after January 1, 1986, shall expire on the last day of the month one year following the date of issuance. Every registration issued under this chapter prior to January 1, 1986, shall expire on the last day of the month in which the birthday of the registrant occurs.

The bureau shall send a notice of noncontinuance of a registration 30 days prior to the expiration of a registration.

Upon receipt of a notice of noncontinuance of a registration from the bureau, a registered employee shall, within 30 days of the notification, apply for a continuation of his or her registration and pay the registered employee continuation fee prescribed by this chapter.

An expired registration may be renewed within 30 days after the date of expiration provided that an application for continuation has been submitted together with a remittance for the payment of the continuation fee and delinquency fee as prescribed by this chapter.

SEC. 3. Section 6915 of the Business and Professions Code is amended to read:

6915. Every licensee who is required to maintain a trust account pursuant to this chapter shall prepare a trust reconciliation statement for the period of January 1 through June 30 and the period of July 1 through December 31 each year. The statement ending June 30 shall be verified and signed, under penalty of perjury, by the qualified manager of record on or before July 31 of the same calendar year. The statement ending December 31 shall be verified and signed, under penalty of perjury, by the qualified manager of record on or before January 31 of the following calendar year.

The original statement ending June 30 and accompanying photocopies of the trust account bank statements shall be sent to the bureau on or before August 10 of the same calendar year. The original statement ending December 31 and accompanying photocopies of the trust account bank statements shall be sent to the bureau on or before February 10 of the following calendar year.

A copy of the statement and accompanying bank statements shall be maintained at the licensee's California address of record for at least three years from the last day of the period covered by the statement.

Each statement shall be prepared on a form furnished by the bureau and shall show the following:

(a) The total amount of money owing and unremitted to customers as of the close of business on the last day of business of the preceding month.

(b) The total amount on deposit in the licensee's trust account and available for immediate distribution to customers as of the close of business on the last ay of business of the preceding month, together with the title of the trust account and the name of the bank where the funds are deposited.

(c) The total amount of the customers' share of all money collected more than 60 days before the last day of business of the preceding month and not remitted on or before the last day of business of the preceding month.

(d) Where a customer's share of any money collected more than 60 days before the last day of business of the preceding month and not remitted on or before the last day of business of the preceding month exceeds ten dollars ($10), the name of the customer, and the amount of the customer's share of the money collected.

Any false statement shall constitute prima facie evidence of willful violation of this chapter and be grounds for institution of disciplinary proceedings against the licensee and the person executing the false statement on behalf of the licensee.

SEC. 4. Section 6915.1 of the Business and Professions Code is amended to read:

6915.1. The director may demand photocopies of trust account bank statements for periods subsequent to the preparation of the last required statement which shall be provided within 30 days of demand. The demand shall be addressed to the licensee's California address of record and sent by registered or certified mail with return receipt requested.

SEC. 5. Section 6916 of the Business and Professions Code is amended to read:

6916. If the trust reconciliation statements and photocopies of accompanying bank statements are not submitted as specified in Section 6915, the license of such licensee shall be automatically suspended unless the bureau has authorized, in writing, an extension prior to the filing dates specified in Section 6915, not to exceed 60 days. If an audit or investigation discloses that trust reconciliation statements and accompanying bank statements are not maintained and available at the California address of record as required by this article, the license of that licensee shall be automatically suspended. Following the automatic suspension, an administrative hearing shall be provided upon written request to the bureau in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 6. Section 6922 of the Business and Professions Code is amended to read:

6922. Whenever a person actively in charge of an office to which Section 6921 applies ceases to be in charge, the licensee shall file with the bureau notice in writing within 10 days from the cessation.

If the notice is filed, the license shall remain in force for a period of 60 days after the filing of the notice or for that further period as allowed under rules and regulations. At the end of the 60-day-day period or an additional period, as specified by the chief, if written notice is not given that a qualified person is then actively in charge of the office, the license shall be automatically suspended.

If the licensee shall fail to give written notice at the end of the 10-day period, the license shall be automatically suspended.

A person who performs any act for which a collection agency license is required during the period of such a suspension is subject to the penal provisions of Article 3 of this chapter in addition to the provisions of Article 10.

SEC. 7. Section 6950 of the Business and Professions Code is amended to read:

6950. Every collection agency license issued under this chapter shall expire on the last day of the month one year following the date of issuance. A licensee desiring a continuation of his or her license shall, on or before the last day of the month of expiration, file with the bureau a request for a continuation on the forms as may be designated by the director. The request shall be accompanied by the continuation fee prescribed by this chapter.

The bureau shall, on or before the first day of the month of expiration, mail to each licensee, addressed to him or her at his or her last known address, a form for continuation of license and notice that the continuation fee is due and payable, stating the amount thereof, and that if the fee is not paid by the date of expiration, the license shall be automatically revoked.

The bureau shall issue a continuation license to the licensee the form and content of which shall be determined in accordance with Section 164.

In the event a licensee fails to request a continuation of his or her license within the time fixed, the license is automatically revoked by process of law, but may be reinstated within 30 days of the date of revocation upon compliance with the rules and regulations established hereunder and upon application of the licensee and upon the payment of the reinstatement fee prescribed by this chapter. Reinstatement of a revoked license shall not prohibit the bringing of disciplinary proceedings for any act committed during the period such license is revoked.

SEC. 8. Section 7500.1 of the Business and Professions Code is amended to read:

7500.1. The following terms as used in this chapter have the meaning expressed in this article.

(a) "Person" includes any individual, partnership, or corporation.

(b) "Department" means the Department of Consumer Affairs.

(c) "Director" means the Director of Consumer Affairs.

(d) "Bureau" means the Bureau of Collection and Investigative Services.

(e) "Chief" means the Chief of the Bureau of Collection and Investigative Services.

(f) "Licensee" means an individual, partnership, or corporation licensed under this chapter as a repossession agency.

(g) "Qualified certificate holder" or "qualified manager" is a person who possesses a valid qualification certificate in accordance with the provisions of Article 5 (commencing with Section 7504) and is in active control or management of, and who is a director of, the licensee's place of business.

(h) "Employee" means a person registered under this chapter.

(i) "Services" means any duty or labor to be rendered by one person for another.

(j) "Dangerous drugs" means any controlled substances as defined in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code.

(k) "Deadly weapon" means and includes any instrument or weapon of the kind commonly known as a blackjack, slingshot, billy, sandclub, sandbag, metal knuckles, dirk, dagger, pistol, or 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.

(*l*) "Combustibles" means any substance or article that is capable of undergoing combustion or catching fire, or that is flammable, if retained.

(m) "Health hazard" means any personal effects which if retained would produce an unsanitary or unhealthful condition.

(n) "Advertisement" means any written or printed communication, including a directory listing, except a free telephone directory listing which does not allow space for a license number.

(o) "Assignment" means an authorization by the legal owner, lienholder, or lessor to recover, or to collect money payment in lieu of recovery of, personal property, including, but not limited to, personal property registered under the Vehicle Code which has been sold under a security agreement that contains a repossession clause.

(p) "Security agreement" means an obligation, pledge, mortgage, chattel mortgage, lease agreement, deposit, or lien, given by a debtor as security for payment or performance of his or her debt, by furnishing the creditor with a resource to be used in case of failure in the principal obligation.

(q) "Legal owner" means a person holding a security interest in personal property which has been sold, leased, or rented under a security agreement.

(r) "Private building" means and includes any dwelling, outbuilding, or other enclosed structure.

(s) "Secured area" means and includes any fenced and locked area.

(t) "Violent act" means any act which results in bodily harm or injury to any party involved.

(u) "Personal property" means any vehicle, boat, recreational vehicle, motor home, appliance, or other property which has been sold under a security agreement.

(v) "Personal effects" means any property contained within repossessed personal property which is not the property of the legal owner.

SEC. 9. Section 7503 of the Business and Professions Code is amended to read:

7503. An application for a repossession agency license shall be

made in writing to, and filed with, the bureau in such form as may be required by the director and shall be accompanied by the original license fee prescribed by this chapter. The director may require the submission of any other pertinent information, evidence, statements, or documents.

Every application for a repossession agency license shall state, among other things that may be required, the name of the applicant and the name under which the applicant will do business, the location by number and street and city of the office of the business for which the license is sought, and the usual business hours the business will maintain.

No license shall be issued in any fictitious name which may be confused with or which is similar to any federal, state, county, or municipal governmental function or agency, or in any name which may tend to describe any business function or enterprise not actually engaged in by the applicant, or in any name which is the same as or so similar to that of any existing licensee as would tend to deceive the public, or in any name which would otherwise tend to be deceptive or misleading.

SEC. 10. Section 7503.5 of the Business and Professions Code is amended to read:

7503.5. If the director determines that the applicant, if an individual, or if the applicant is a person other than an individual, that its manager and any of its officers and partners have committed any of the following acts, the director may deny the license:

(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) Been refused a license under this chapter or had a license revoked.

(d) Been an officer, partner, or manager of any person who has been refused a license under this chapter or whose license has been revoked.

(e) Committed, or aided and abetted the commission of, any act for which a license is required by this chapter while unlicensed.

(f) Knowingly made any false statement in his or her application.

(g) Committed any act or crime constituting grounds for denial of licensure under Section 480.

The denial 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 hearing to contest the denial, the hearing shall be requested of the director, in writing, within 30 days of the issuance of the denial.

When a hearing is held under this section, it 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.

SEC. 11. Section 7504 of the Business and Professions Code is amended to read:

7504. Except as otherwise provided in this chapter, an applicant

for a qualification certificate shall comply with all of the following:

(a) Be at least 18 years of age.

(b) Have been, for at least one year during the five years preceding the date on which his or her application is filed, an employee of a licensed repossession agency within this state or have had experience in recovering personal property sold under a security agreement within this state.

A year's experience shall consist of not less than 2,000 hours of actual compensated work performed by the applicant preceding the filing of an application.

An applicant shall substantiate the claimed hours 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 director 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 others than employers substantiating employment for consideration by the director.

(c) Complete and forward to the bureau a qualified certificate holder application which shall be on a form prescribed by the director. The application shall be accompanied by two recent photographs of the applicant, of a type prescribed by the director, and two classifiable sets of his or her fingerprints.

(d) Pass the examination required.

(e) Pay the required application and examination fees to the bureau.

SEC. 12. Section 7505.3 of the Business and Professions Code is amended to read:

7505.3. (a) Whenever a qualified certificate holder actively in charge of an office ceases to be in charge, the licensee shall file with the bureau notice, in writing, within 30 days from such cessation.

If the notice is filed, the license shall remain in force for a period of 90 days after the filing of the notice. At the end of the 90-day period or an additional period, not to exceed one year, as specified by the director, if written notice is not given that a qualified person is then actively in charge of the office, the agency license shall be automatically suspended.

If the licensee shall fail to give written notice at the end of the 30-day period, the agency license shall be automatically suspended.

A license suspended under this section may be reinstated upon payment of the reinstatement fee and submission of a reinstatement application.

A person who performs any act for which a repossession agency license is required during the period of suspension is subject to the penal provisions of Article 3 (commencing with Section 7502), in addition to the provisions of Article 9 (commencing with Section 7508) and Article 10 (commencing with Section 7510).

(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 120 days following the death of the licensee, provided that written notice is made to the bureau within 30 days following the death of the licensee. At the end of the 120-day period, the license shall be automatically canceled. If no request is received within the 30-day period, the license shall be automatically canceled at the end of that period.

(c) In the case of the death or disassociation of a partner of an entity licensed as a partnership, the licensee shall notify the bureau, in writing, within 30 days from the death or disassociation of the individual. If notice is given, the license shall remain in force for 90 days following the death or disassociation. At the end of that period, the license shall be automatically canceled. If the licensee fails to notify the bureau within the 30-day period, the license shall be automatically canceled at the end of that period.

(d) A license extended under this section is subject to all other provisions of this chapter.

SEC. 13. Section 7506.5 of the Business and Professions Code is amended to read:

7506.5. All information obtained on the application shall be confidential pursuant to the Information Practices Act (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code) and shall not be released to the public except for the registrant's full name, the employer's name and address, and the registration number. The application shall be verified and shall include:

(a) The full name, residence address, residence telephone number, date and place of birth, and driver's license number of the employee.

(b) A statement listing any and all names used by the employee, other than the name by which he or she is currently known. If the employee has never used a name other than his or her true name, this fact shall be set forth in the statement.

(c) The name and address of the employer and the date the employment commenced.

(d) The title of the position occupied by the employee and a description of his or her duties.

(e) Two recent photographs of the employee, of a type prescribed by the chief, and two classifiable sets of his or her fingerprints.

SEC. 14. Section 7506.8 of the Business and Professions Code is amended to read:

7506.8. (a) The director may refuse to register any employee if the individual has failed to pay any or all fines assessed pursuant to Section 7501.7 and not resolved in accordance with that section, or 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, or has committed acts or crimes constituting grounds for denial of a license under Section 480.

The denial 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 hearing to contest the denial, the hearing shall be requested of the director, in writing, within 30 days of the issuance of the denial.

When a hearing is held under this section, it 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.

(b) The director may suspend or revoke a registration if the registrant 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.

SEC. 15. Section 7508.2 of the Business and Professions Code is amended to read:

7508.2. The director may assess administrative fines for any of the following prohibited acts:

(a) Recovering personal property or making any money demand in lieu thereof, including, but not limited to, personal property registered under the Vehicle Code, which has been sold under a security agreement before a signed or telegraphic authorization has been received from the legal owner of the personal property. A telephonic assignment is acceptable if the legal owner is known to the licensee and a written authorization from the legal owner is received by the licensee within 10 working days or a request by the licensee for a written authorization from the legal owner is made in writing within 10 working days. Referrals of assignments from one licensee to another licensee with confirmation to the lienholder, informing the lienholder of the name, address, and license number of the licensee to whom the referral was made are acceptable. The referral of an assignment shall be made under the same terms and conditions as in the original assignment. The fine shall be twenty-five dollars ($25) for each of the first five violations and one hundred dollars ($100) for each violation thereafter, per audit.

(b) Using personal property or personal effects, which have been recovered, for the personal benefit of a licensee, or officer, partner, manager, or employee of a licensee. The fine shall be twenty-five dollars ($25) for the first violation and one hundred dollars ($100) for each violation thereafter. This subdivision does not apply to personal effects disposed of pursuant to subdivision (c) of Section 7507.9.

(c) Selling personal property recovered under the provisions of this chapter, except with written authorization from the legal owner or mortgagee thereof. The fine shall be one hundred dollars ($100) for the first violation and five hundred dollars ($500) for each violation thereafter, per audit.

(d) Failing to remit all money due clients within 10 working days after finalization of the sale of personal property. The licensee shall deposit all money received in the form of cash or negotiable instruments made payable to the licensee for money due clients from the sale of personal property which has been repossessed in a trust account within five working days, and the money shall be withdrawn only for remittance to the client and for the payment of amounts due

the licensee. The fine shall be two hundred fifty dollars ($250) for the first violation and one thousand dollars ($1,000) for each violation thereafter. For purposes of this subdivision, "finalization of sale" means the time when the documents of title or ownership which permit transfer of title from the legal owner to the purchaser are received by the repossession agency.

(e) Failing to remit moneys collected in lieu of repossession or redemption to a client within 10 working days after receipt of the moneys. The fine shall be two hundred fifty dollars ($250) for the first violation and one thousand dollars ($1,000) for each violation thereafter.

(f) Failing to deliver to a client any negotiable instrument received by the licensee made payable to the client within 10 working days of receipt of the negotiable instrument. No licensee, manager, or employee of a licensee shall accept a negotiable instrument made payable to a client unless they have authorization from the client to accept such a negotiable instrument. The fine shall be two hundred fifty dollars ($250) for the first violation and one thousand dollars ($1,000) for each violation thereafter.

(g) Unlawfully entering any private building or secured area without the consent of the owner, or of the person in legal possession thereof, at the time of repossession. The fine shall be five hundred dollars ($500) for each violation.

(h) Committing unlawful assault or battery on another person. The fine shall be five hundred dollars ($500) for each violation.

(i) Falsification or alteration of an inventory. The fine shall be twenty-five dollars ($25) for each violation.

(j) Soliciting from the legal owner the recovery of specific personal property registered under the Vehicle Code or under the motor vehicle licensing laws of other states after the property has been seen or located on a public street or on public or private property without divulging the location of the vehicle. The fine shall be one hundred dollars ($100) for the first violation and two hundred fifty dollars ($250) for each violation thereafter.

SEC. 16. Section 7508.4 of the Business and Professions Code is amended to read:

7508.4. The director may assess administrative fines for any of the following prohibited acts:

(a) Conducting business from any location other than that location to which a license was issued or conducting a business as an individual, partnership, or corporation unless the licensee holds a valid license issued to that exact same individual, partnership, or corporation. The fine shall be one thousand dollars ($1,000) for each violation.

(b) Aiding or abetting an unlicensed repossessor or assigning his or her license. "Assigning his or her license" means that no licensee shall permit an employee or agent in his or her own name to advertise, engage clients, furnish reports, or present bills to clients, or in any manner whatsoever to conduct business for which a license

is required under this chapter. The fine shall be one thousand dollars ($1,000) for each violation.

(c) Failing to register employees within 15 days. The fine shall be twenty-five dollars ($25) for each of the first two violations and one hundred dollars ($100) for each violation thereafter, per audit.

(d) Employing a repossessor employee whose registration has expired, been revoked, been denied, been suspended, or been canceled, if the bureau has furnished a listing of such employees to the licensee. The fine shall be twenty-five dollars ($25) for each violation.

(e) Failing to notify the bureau, within 30 days, of any change in officers. A notice of warning shall be issued for the first violation. Thereafter the fine shall be twenty-five dollars ($25) for each violation.

(f) Failing to present the debtor with an itemized receipt of payment, if payment is made in lieu of repossession. The fine shall be twenty-five dollars ($25) for the first violation and one hundred dollars ($100) for each violation thereafter.

(g) Failing to submit a notice regarding a violent act within seven days pursuant to Section 7507.6 or to submit a copy of a judgment awarded against the licensee for an amount of more than five hundred dollars ($500) within seven days pursuant to Section 7507.7. The fine shall be twenty-five dollars ($25) for the first violation and one hundred dollars ($100) per violation thereafter.

(h) Failing to include the licensee's name, address, and license number in any advertisement. A notice of warning shall be issued for the first violation. Thereafter, the fine shall be twenty-five dollars ($25) for each violation.

(i) Failing to maintain personal effects for at least 60 days. The fine shall be twenty-five dollars ($25) for the first violation and one hundred dollars ($100) for each violation thereafter.

(j) Failing to provide a personal property effects list or a notice of seizure within the time limits set forth in Section 7507.9 or 7507.10. The fine shall be twenty-five dollars ($25) for the first violation and one hundred dollars ($100) for each violation thereafter.

(k) Failing to file the required report pursuant to Section 28 of the Vehicle Code. The fine shall be twenty-five dollars ($25) for each of the first five violations and one hundred dollars ($100) for each violation thereafter, per audit.

SEC. 17. Section 7510.1 of the Business and Professions Code is amended to read:

7510.1. The director may suspend or revoke a repossession agency license, a qualification certificate, or registration issued under this chapter if the director determines that the licensee or the licensee's manager, if an individual, or if the licensee is a person other than an individual, that any of its officers, partners, employees, or its manager, has:

(a) Made any false statement or given any false information in connection with an application for a license or a renewal or

reinstatement of a license.

(b) Violated any provisions of this chapter.

(c) Violated any rule of the director adopted pursuant to authority contained in this chapter.

(d) Been convicted of a felony or any crime substantially related to the repossession agency business including illegally using, carrying, or possessing a deadly weapon.

(e) 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.

(f) Unlawfully committed assault, battery, or kidnapping, or used force or violence on any person.

(g) Knowingly violated, or advised, encouraged, or assisted the violation of any court order or injunction in the course of business as a licensee.

(h) Been convicted of a violation of Section 148 of the Penal Code, resisting or obstructing a public officer.

(i) Committed any act which is a ground for denial of an application for license under this chapter.

(j) Committed any act prohibited by Chapter 1.5 (commencing with Section 630) of Title 15 of Part 1 of the Penal Code.

(k) Committed any act in the course of the licensee's business constituting dishonesty or fraud, including, but not limited to:

(1) 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.

(2) Using illegal means in the collection or attempted collection of a debt or obligation.

SEC. 18. Section 7511 of the Business and Professions Code is amended to read:

7511. The fees prescribed by this chapter are as follows:

(a) The application fee for an original repossession agency license is seven hundred fifty dollars ($750).

(b) The application fee for an original qualification certificate is two hundred fifty dollars ($250).

(c) The renewal fee for a repossession agency license is four hundred fifty dollars ($450) annually.

(d) The renewal fee for a license as a qualified certificate holder is two hundred dollars ($200) annually.

(e) Notwithstanding Section 163.5, the reinstatement fee for a repossession agency license required pursuant to Sections 7503.11 and 7505.3 is the amount equal to the renewal fee plus a penalty of 50 percent thereof.

(f) Notwithstanding Section 163.5, the reinstatement fee for a license as a qualified certificate holder required pursuant to Sections 7504.7 and 7503.11 is the amount equal to the renewal fee plus a penalty of 50 percent thereof.

(g) The fee for reexamination of an applicant or the applicant's

qualified certificate holder is ten dollars ($10).

(h) An initial repossessor employee registration fee is fifty dollars ($50), a repossessor employee reregistration fee is twenty-five dollars ($25), and a repossessor employee annual renewal fee is twenty-five dollars ($25) per registration.

(i) The fingerprint processing fee is that amount charged the bureau by the Department of Justice.

(j) The director shall furnish one copy of any issue or edition of the licensing law and rules and regulations to any applicant or licensee without charge. The director shall charge and collect a fee of three dollars ($3) plus sales tax for each additional copy which may be furnished on request to any applicant or licensee, and for each copy furnished on request to any other person.

All fees, except any sales tax, received pursuant to this chapter shall be deposited in the Private Investigator Fund.

SEC. 19. Section 7515 of the Business and Professions Code is amended to read:

7515. The director may adopt and enforce reasonable rules, as follows:

(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) 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.

(e) 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.

(f) 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.

(g) 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.

(h) 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.

SEC. 20. Section 7517.2 of the Business and Professions Code is amended to read:

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 bureau within 30 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 bureau 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.

SEC. 21. Section 7522 of the Business and Professions Code is amended to read:

7522. This chapter does not apply to:

(a) A person employed exclusively and regularly by any employer

who does not provide contract security services for other entities or persons, 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.

SEC. 22. Section 7523 of the Business and Professions Code is amended to read:

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, or who knowingly engages an unlicensed private investigator after being notified in writing by the bureau of the private investigator's unlicensed status with the bureau, 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, or who knowingly engages an unlicensed private patrol operator after being notified in writing by the bureau of the patrol operator's unlicensed status with the bureau, is guilty of a misdemeanor punishable by fine not to exceed one thousand dollars ($1000) 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.

SEC. 23. Section 7525.1 of the Business and Professions Code is amended to read:

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 type of license for which the applicant is applying.

(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 bureau 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, secretary, chief financial officer, and any other corporate officer who will be active in the business to be licensed. 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.

SEC. 24. Section 7537 of the Business and Professions Code is amended to read:

7537. (a) 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 120 days following the death of the licensee, provided that written application for permission is made to the bureau within 30 days following the death of the licensee. At the end of the 120-day period, the license shall be automatically canceled. If no request is received within the 30-day period, the license shall be automatically canceled at the end of that period.

(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 the notice of cessation is filed timely, the license shall remain in force for a period of 90 days after cessation or for an additional period, not to exceed one year, as

approved by the director, pending the qualification of another manager as provided in this chapter. After the 90-day period or additional period, as approved by the director, the license shall be automatically suspended, unless the bureau receives written notification that the license is under the active charge of a qualified manager. If the licensee fails to notify the bureau within the 30-day period, his or her license shall be automatically suspended and may be reinstated only upon the filing of an application for reinstatement, payment of the reinstatement fee, and the qualification of a manager as provided in this chapter.

(c) In the case of the death or disassociation of a partner of an entity licensed as a partnership, the licensee shall notify the bureau, in writing, within 30 days from the death or disassociation of the individual. If notice is given, the license shall remain in force for 90 days following the death or disassociation. At the end of such period the license shall be automatically canceled. If the licensee fails to notify the bureau within the 30-day period, the license shall be automatically canceled.

(d) A license extended under this section is subject to all other provisions of this chapter.

SEC. 25. Section 7546 of the Business and Professions Code is amended to read:

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 on a form as prescribed by the director, 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.

SEC. 26. Section 7546.2 of the Business and Professions Code is amended to read:

7546.2. The application shall be verified and shall include all of the following:

(a) The full name, residence address, telephone number, and date of birth 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.

SEC. 27. Section 7546.8 of the Business and Professions Code is amended to read:

7546.8. (a) The director 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 30 days following notice of the issuance of the denial.

SEC. 28. Section 7547.4 of the Business and Professions Code is amended to read:

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 30 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.

SEC. 29. Section 7548 of the Business and Professions Code is amended to read:

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, no licensee, qualified manager, or registered security guard shall, during the course and scope of licensed activity, do any of the following:

(a) Carry any inoperable, replica, or other simulated firearm.

(b) 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) 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) 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) 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.

SEC. 30. Section 7550.32 of the Business and Professions Code is amended to read:

7550.32. The application shall be verified and shall include all of the following:

(a) The full name, residence address, telephone number, and date of birth 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.

SEC. 31. Section 7552.9 of the Business and Professions Code is amended to read:

7552.9. (a) Each firearm training facility shall, prior to allowing any person to participate in the course of training in the carrying and usage of firearms, verify and certify on the firearms qualification application that they have seen documentation verifying that the person to whom they are providing firearms training is a citizen of the United States or possesses permanent legal alien status in the United States in accordance with Sections 7547.1 and 7596.3.

(b) During calendar year 1985, each firearm training facility shall, prior to allowing any person to participate in the requalification course in the carrying and usage of firearms, verify and certify on the firearm requalification application that they have seen documentation verifying that the person to whom they are providing firearms training is a citizen of the United States or possesses permanent legal alien status in the United States in accordance with Sections 7547.7 and 7596.7.

SEC. 32. Section 7553.5 of the Business and Professions Code is amended to read:

7553.5. (a) A baton training facility shall issue a bureau-developed baton certificate to any person who successfully completes a baton training course as described in Section 7553, possesses a valid registration card issued pursuant to Article 3.2 (commencing with Section 7544) or Chapter 11.6 (commencing with Section 7590), and has made application for such registration. 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, on forms as prescribed by the director, no later than five working days following certification for each person, the name, address, bureau registration or license number, date of birth, and baton certificate number of each person certified.

SEC. 33. Section 7558.5 of the Business and Professions Code is amended to read:

7558.5. Except as otherwise provided in this article, an expired license or branch office certificate may be renewed at any time within one year 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.

SEC. 34. Section 7560 of the Business and Professions Code is amended to read:

7560. A license or branch office certificate which is not renewed within one year 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.

SEC. 35. Section 7570 of the Business and Professions Code is amended to read:

7570. The fees prescribed by this chapter are as follows:

(a) The application and examination fee for an original license for a private patrol operator is one hundred dollars ($100) and for a private investigator and protection dog operator is twenty-five dollars ($25).

(b) The application fee for an original branch office certificate for a private investigator and protection dog operator is fifteen dollars ($15) and for a private patrol operator is fifty dollars ($50).

(c) The fee for an original license for a private investigator is one hundred dollars ($100), for protection dog operator is two hundred fifty dollars ($250), and for private patrol operator is three hundred fifty dollars ($350).

(d) The renewal fee is as follows:

(1) For a license as a private investigator, one hundred dollars ($100).

(2) For a license as a private patrol operator, three hundred fifty dollars ($350).

(3) For a combination license as a private investigator and private patrol operator, AC or DC prefix, four hundred dollars ($400).

(4) For a license as a protection dog operator, two hundred fifty dollars ($250).

(5) For a branch office certificate for a private investigator, protection dog operator, and a combination private investigator and private patrol operator AC and DC prefix, twenty dollars ($20) and for a private patrol operator, fifty dollars ($50).

(e) The delinquency fee is 50 percent of the renewal fee in effect on the date of expiration, but not more than twenty-five dollars ($25).

(f) A reinstatement fee is equal to the amount of the renewal fee plus the regular delinquency fee.

(g) The fee for reexamination of an applicant or his or her manager is ten dollars ($10).

(h) Registration fees pursuant to this chapter are as follows:

(1) A registration fee for a protection dog operator employee is twelve dollars ($12) and for a security guard is eighteen dollars ($18).

(2) A protection dog operator employee registration renewal fee of ten dollars ($10).

(3) A security guard registration renewal fee of eighteen dollars ($18).

(i) Fees to carry out other provisions of this chapter are as follows:

(1) A firearms qualification fee of thirty dollars ($30).

(2) A firearms requalification fee of twenty dollars ($20).

(3) An initial baton certification fee of twenty dollars ($20).

(4) An application fee and renewal fee for certification as a firearms training facility or a baton training facility of one hundred dollars ($100).

(5) An application fee and renewal fee for certification as a firearms training instructor or a baton training instructor of fifty dollars ($50).

SEC. 36. Section 7590.3 of the Business and Professions Code is amended to read:

7590.3. This chapter does not apply to:

(a) A person employed exclusively and regularly by any employer who does not provide contract alarm services for other entities or persons, in connection with the affairs of that employer only and where there exists an employer-employee relationship. A person so employed shall at no time carry or use any deadly weapon in the performance of his or her duties.

(b) An officer or employee of the United States of America, or of this state or a political subdivision thereof, while the officer or employee is engaged in the performance of his or her official duties,

including uniformed peace officers employed part time by a public agency pursuant to a written agreement between a chief of police or sheriff and the public agency.

(c) Patrol special police officers appointed by the police commission of any city, county, or city and county under the express terms of its charter.

SEC. 37. Section 7591.18 of the Business and Professions Code is amended to read:

7591.18. The Alarm Company Operator Disciplinary Review Committee shall perform the following functions:

(a) Affirm, rescind, or modify all appeals concerning administrative fines assessed by the bureau against alarm company operators or their employees.

(b) Affirm, rescind, or modify all appeals concerning denial, revocation, or suspension of licenses, and certificates, registrations, or permits issued by the bureau, except denials or suspensions ordered by the director in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 38. Section 7591.19 of the Business and Professions Code is amended to read:

7591.19. (a) An alarm company operator, qualified manager, or alarm agent may request a review by the Alarm Company Operator Disciplinary Review Committee to contest the assessment of an administrative fine or to appeal a denial, revocation, or suspenison unless the denial or suspension is ordered by the director in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code or in accordance with Section 7591.8.

A request for a review shall be by written notice to the bureau within 30 days of the issuance of the citation and assessment, denial or suspension.

Following a review by the disciplinary review committee, the appellant shall be notified within 30 days, in writing, by regular mail, of the committee's decision.

If the appellant disagrees with the decision made by the Alarm Company Operator Disciplinary Review Committee, he or she may request a hearing as outlined in subdivision (b). A request for a hearing following a decision by the disciplinary review committee shall be by written notice to the bureau within 30 days of the committee's decision.

If the appellant does not request a hearing within 30 days, the review committee's decision shall become final.

(b) An alarm company operator, qualified manager, or alarm agent may request a hearing in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code if he or she contests an assessment of an administrative fine, or to appeal a denial, suspension, or revocation. A hearing may also be requested if the appellant disagrees with the

decision made by the Alarm Company Operator Disciplinary Review Committee.

A request for a hearing shall be by written notice to the bureau within 30 days of the issuance of the decision by the review committee. A hearing pursuant to this subdivision shall be available only after a review by the disciplinary review committee.

SEC. 39. Section 7592.4 of the Business and Professions Code is amended to read:

7592.4. A license shall not be issued to any person who has been convicted of a violation of the provisions of Section 7592.2 or 7592.3, unless at least one year has elapsed since the date of conviction.

SEC. 40. Section 7593.2 of the Business and Professions Code is amended to read:

7593.2. If the applicant for license is an individual, the application shall state the full name of the individual, the full residence address of the applicant, and that the applicant is to be personally and actively in charge of the business for which the license is sought; or if any other qualified manager is to be actively in charge of the business, the application shall so state and set forth the name of that person. The application shall be subscribed, verified, and signed by the applicant, under penalty of perjury.

SEC. 41. Section 7593.3 of the Business and Professions Code is amended to read:

7593.3. If the applicants for license are copartners, the application shall state the true names and addresses of all the general partners and the name of the partner to be actively in charge of the business for which the license is sought; or if a qualified manager other than a partner is to be actively in charge of the business then the application shall state the name and address of that person. The application shall be subscribed, verified, and signed under penalty of perjury by all of the general partners.

SEC. 42. Section 7593.4 of the Business and Professions Code is amended to read:

7593.4. If the applicant for license is a corporation, the application shall state the true names and complete residence addresses of the chief executive officer, secretary, chief financial officer, and any other corporate officer who will be active in the business to be licensed. A copy of the articles of incorporation issued by the Secretary of State shall be supplied to the bureau upon request. The application shall also state the name and address of the designated person to be actively in charge of the business for which the license is sought. The application shall be subscribed, verified, and signed by a duly authorized officer of the applicant under penalty of perjury.

SEC. 43. Section 7594.3 of the Business and Professions Code is amended to read:

7594.3. (a) Whenever a qualified manager ceases to be in active charge of the business, the license shall be automatically suspended within 30 days unless the licensee notifies the bureau within the 30-day period of such cessation.

(b) Whenever a designated branch office manager ceases management of a registered branch office, the branch office registration shall be automatically suspended within 30 days unless the qualified manager notifies the bureau within the 30-day period of such cessation.

(c) If the notice of cessation is filed timely, the license or branch office registration shall remain in force for a period of 90 days after cessation or for an additional period, not to exceed one year, as specified by the director. After the 90-day period or additional period, as approved by the director, the license or branch office registration shall be automatically suspended, unless the bureau receives written notification that the license is under the active charge of a qualified manager or that a branch office manager has been designated.

A license or branch office registration suspended under this section may be reinstated only upon the filing of an application for reinstatement, payment of the reinstatement fee, and the qualification of a manager as provided by this chapter.

A person who performs any act for which an alarm company operator license is required during the period of a suspension is subject to the penal provisions of Article 3 (commencing with Section 7592), in addition to any other provisions of this chapter.

(d) 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 120 days following the death of the licensee, provided that written notification is made to the bureau within 30 days following the death of the licensee. At the end of the 120-day period, the license shall be automatically canceled. If no request is received within the 30-day period, the license shall be automatically canceled at the end of that period.

(e) In the case of the death or disassociation of a partner of an entity licensed as a partnership, the licensee shall notify the bureau, in writing, within 30 days from the death or disassociation of the individual. If notice is given, the license shall remain in force for 90 days following the death or disassociation. At the end of such period the license shall be automatically canceled. If the licensee fails to notify the bureau within the 30-day period, the license shall be automatically canceled.

SEC. 44. Section 7596.7 of the Business and Professions Code is amended to read:

7596.7. A firearms qualification card expires one year from the date of issuance, if not renewed. A person who wishes to renew a firearms qualification card may file an application for renewal within 60 days prior to the 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.

The director shall not renew a firearms qualification card unless all of the following conditions exist:

(a) The cardholder has filed with the bureau a completed application for renewal of a firearms qualification card, on a form prescribed by the director, dated and signed by the applicant under penalty of perjury certifying that the information on the application is true and correct.

(b) The application is accompanied by a firearms requalification fee as prescribed in this chapter.

(c) The applicant has requalified on the range and has successfully passed a written examination based on course content as specified in the firearms training manual approved by the department and taught at a training facility approved by the bureau.

(d) During calendar year 1985, the applicant has produced evidence to the firearm training facility either upon receiving his or her original qualification card or upon filing for renewal of that card that he or she is a citizen of the United States or has permanent legal alien status in the United States. Such evidence of citizenship or permanent legal alien status shall be that deemed sufficient by the bureau to ensure compliance with federal laws prohibiting possession of firearms by persons unlawfully in the United States and may include, but not be limited to, Department of Justice, Immigration and Naturalization Service Form I-151 or I-551, Alien Registration Receipt Card, naturalization documents, or birth certificates evidencing lawful residence or status in the United States.

(e) An expired firearms qualification card may not be renewed. A person with an expired firearms qualification card is required to apply for a new card in the manner required of persons not previously registered. A person whose card has expired shall not carry a firearm until he or she has been issued a new firearms qualification card by the bureau.

SEC. 45. Section 7597.6 of the Business and Professions Code is amended to read:

7597.6. No licensee, qualified manager, branch office manager, or alarm agent shall carry a concealed weapon, unless the person has been issued a concealed weapons permit by a local law enforcement agency pursuant to Section 12050 of the Penal Code.

A fine of five hundred dollars ($500) may be assessed for each violation of this section.

SEC. 46. Section 7598.6 of the Business and Professions Code is amended to read:

7598.6. The application shall be verified and shall include the following:

(a) The full name, residence address, telephone number, and date of birth of the employee.

(b) The name, address, telephone number, and license number of the employer and the date the employment commenced.

(c) A statement as to whether the employee has been convicted of a misdemeanor, excluding minor traffic violations.

(d) A statement as to whether the employee has been convicted

of a felony.

SEC. 47. Section 7599 of the Business and Professions Code is amended to read:

7599. Except as otherwise provided in this chapter, an applicant for a qualified manager certificate for an alarm company operator license shall:

(a) Have had at least two years' experience in alarm company work or the equivalent thereof as determined by the director.

A year's experience shall consist of not less than 2,000 hours of actual compensated alarm company work performed by each applicant preceding the filing of an application.

Applicants shall substantiate the claimed years and hours of qualifying experience and the exact details as to the character and nature thereof by written certifications from employers on forms prescribed by the director, subject to independent verification by the director as he or she may determine. In the event the applicant is unable to supply a written certification from an employer, the applicant may offer such other written certifications as may be properly considered by the director. In addition, applicants shall supply such evidence for consideration, as may be required by the director.

(b) Be at least 18 years of age.

(c) Complete and forward to the bureau an application for a qualified manager certificate for an alarm company operator license, which shall be on a form prescribed by the director. The application shall be accompanied by two recent photographs of the applicant, measuring 1¼" by 1½", with a face size no greater than 1" by 1¼", and two classifiable sets of his or her fingerprints.

(d) Pass the required examination.

(e) Pay the required application and examination fees to the chief.

SEC. 48. Section 7599.6 of the Business and Professions Code is amended to read:

7599.6. In order to be eligible for an initial examination, an applicant shall have completed and filed his or her application together with the application fee prescribed by this chapter in the office of the bureau in Sacramento, California, and have his or her experience independently verified by the bureau, not later than 30 days prior to the next scheduled examination date. Applicants shall not be scheduled until a thorough investigation has been concluded by the bureau. Applicants whose applications are not completed and filed within the time limits of this section may, at the discretion of the director, be scheduled for the next scheduled examination.

SEC. 49. Section 7599.70 of the Business and Professions Code is amended to read:

7599.70. The fees prescribed by this chapter are those fixed in the following schedule:

(a) A company license application fee of twenty-five dollars ($25).

(b) An original license and renewal fee for an alarm company

operator license of two hundred dollars ($200).

(c) A qualified manager application and examination fee of seventy-five dollars ($75).

(d) A renewal fee for a qualified manager of seventy-five dollars ($75).

(e) An original license fee and renewal fee for a branch office certificate of twenty-five dollars ($25).

(f) Notwithstanding Section 163.5, the reinstatement fee as required by Section 7593.12 is the amount equal to the renewal fee plus a penalty of 50 percent thereof.

(g) A fee for reexamination of an applicant for a qualified manager of ten dollars ($10).

(h) An initial registration fee for an alarm agent of twelve dollars ($12).

(i) A registration renewal fee for an alarm agent of seven dollars ($7).

(j) A firearms qualification fee of thirty dollars ($30) and a firearms requalification fee of twenty dollars ($20).

(k) The fingerprint processing fee is that amount charged the bureau by the Department of Justice.

(*l*) The processing fee required pursuant to Sections 7593.7 and 7598.14 is the amount equal to the expenses incurred to provide a photo identification card.

(m) The fee for a "Certificate of Licensure" of twenty-five dollars ($25).

SEC. 50. Section 4 of Chapter 772 of the Statutes of 1978, as amended by Chapter 170 of the Statutes of 1983, is amended to read:

Sec. 4. Section 1 of this act shall become operative on June 30, 1989, unless a later enacted statute which is chaptered on or before that date deletes or extends that date.

SEC. 51. No reimbursement is required by this act pursuant to 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 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 877

An act to amend Sections 859 and 1430 of the Penal Code, relating to criminal procedure.

[Approved by Governor September 21, 1985. Filed with Secretary of State September 23, 1985.]

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

SECTION 1. Section 859 of the Penal Code is amended to read:

859. When the defendant is charged with the commission of a public offense over which the superior court has original jurisdiction, by a written complaint subscribed under oath and on file in a court within the county in which the public offense is triable, he or she shall, without unnecessary delay, be taken before a magistrate of the court in which the complaint is on file. The magistrate shall immediately deliver to the defendant a copy of the complaint, inform the defendant that he or she has the right to have the assistance of counsel, ask the defendant if he or she desires the assistance of counsel, and allow the defendant reasonable time to send for counsel. However, in a capital case, the court shall inform the defendant that the defendant must be represented in court by counsel at all stages of the preliminary and trial proceedings and that the representation will be at the defendant's expense if the defendant is able to employ counsel or at public expense if he or she is unable to employ counsel, inquire of him or her whether he or she is able to employ counsel and, if so, whether the defendant desires to employ counsel of the defendant's choice or to have counsel assigned for him or her, and allow the defendant a reasonable time to send for his or her chosen or assigned counsel. The magistrate must, upon the request of the defendant, require a peace officer to take a message to any counsel whom the defendant may name, in the judicial district in which the court is situated. The officer shall, without delay and without a fee, perform that duty. If the defendant desires and is unable to employ counsel, the court shall assign counsel to defend him or her; in a capital case, if the defendant is able to employ counsel and either refuses to employ counsel or appears without counsel after having had a reasonable time to employ counsel, the court shall assign counsel to defend him or her. If it appears that the defendant may be a minor, the magistrate shall ascertain whether that is the case, and if the magistrate concludes that it is probable that the defendant is a minor, he or she shall immediately either notify the parent or guardian of the minor, by telephone or messenger, of the arrest, or appoint counsel to represent the minor. The prosecuting attorney shall deliver to, or make accessible for inspection and copying by, the defendant or counsel, copies of the police, arrest, and crime reports, upon the first court appearance of counsel, or upon a determination by a magistrate that the defendant can represent himself or herself. If unavailable to the prosecuting attorney at the time of that appearance or determination, the reports shall be delivered within two calendar days. Portions of those reports containing privileged information need not be disclosed if the defendant or counsel has been notified that privileged information has not been disclosed. If the charges against the defendant are dismissed prior to the time the above-mentioned documents are delivered or made accessible, the

prosecuting attorney need not deliver or make accessible those documents unless otherwise so compelled by law. The court shall not dismiss a case because of the failure of the prosecuting attorney to immediately deliver copies of the reports or to make them accessible for inspection and copying.

SEC. 2. Section 1430 of the Penal Code is amended to read:

1430. The prosecuting attorney shall deliver to, or make accessible for inspection and copying by, the defendant or counsel, copies of the police, arrest, and crime reports, upon the first court appearance of counsel, or upon a determination by a magistrate that the defendant can represent himself or herself. If unavailable to the prosecuting attorney at the time of that appearance or determination, the reports shall be delivered within two calendar days. Portions of those reports containing privileged information need not be disclosed if the defendant or his or her counsel has been notified that privileged information has not been disclosed. If the charges against the defendant are dismissed prior to the time the above-mentioned documents are delivered or made accessible, the prosecuting attorney need not deliver or make accessible such documents unless otherwise so compelled by law. The court shall not dismiss a case because of the failure of the prosecuting attorney to immediately deliver copies of the reports or to make them accessible for inspection and copying.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution 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 878

An act to amend Section 73 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 21, 1985. Filed with Secretary of State September 23, 1985]

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

SECTION 1. Section 73 of the Revenue and Taxation Code is amended to read:

73. (a) For purposes of subdivision (a) of Section 2 of Article XIII A of the Constitution, the term "newly constructed" does not include the construction or addition of any active solar energy system. In the case of solar swimming pool heaters, "new construction" does not include the increment of cost in excess of the cost of a comparable conventional fossil fuel heating system.

(b) For purposes of this section, "active solar energy system"

means a system which uses solar devices thermally isolated from living space or other area where the energy is used to provide for collection, storage or distribution of solar energy. These solar systems may be used for any of the following:

(1) Domestic, recreational, therapeutic, or service water heating.

(2) Space conditioning.

(3) Production of electricity.

(4) Process heat.

(5) Solar mechanical energy.

(c) This section shall apply to lien dates for the 1981–82 to 1990–91 fiscal years, inclusive. This section 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. The Legislative Analyst shall report to the Legislature on or before January 1, 1990, on the fiscal and economic effects of Section 1 of this act.

SEC. 3. Notwithstanding Section 2229 of the Revenue and Taxation Code, there shall be no reimbursement for property tax revenues lost as a result of this measure for the reason that this measure will implement an amendment to the California Constitution which was approved by voters of the state.

CHAPTER 879

An act to amend Section 86 of the Code of Civil Procedure, relating to judicial arbitration.

[Approved by Governor September 21, 1985. Filed with Secretary of State September 23, 1985.]

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

SECTION 1. Section 86 of the Code of Civil Procedure is amended to read:

86. (a) Each municipal and justice court has original jurisdiction of civil cases and proceedings as follows:

(1) In all cases at law in which the demand, exclusive of interest, or the value of the property in controversy amounts to fifteen thousand dollars ($15,000) or less, except cases which involve the legality of any tax, impost, assessment, toll, or municipal fine, except the courts have jurisdiction in actions to enforce payment of delinquent unsecured personal property taxes if the legality of the tax is not contested by the defendant.

(2) In actions for dissolution of partnership where the total assets of the partnership do not exceed fifteen thousand dollars ($15,000); in actions of interpleader where the amount of money or the value of the property involved does not exceed fifteen thousand dollars

($15,000).

(3) In actions to cancel or rescind a contract when the relief is sought in connection with an action to recover money not exceeding fifteen thousand dollars ($15,000) or property of a value not exceeding fifteen thousand dollars ($15,000), paid or delivered under, or in consideration of, the contract; in actions to revise a contract where the relief is sought in an action upon the contract if the court otherwise has jurisdiction of the action.

(4) In all proceedings in forcible entry or forcible or unlawful detainer:

(A) In actions to recover possession of real property where rent is charged, and the amount of the last rental charged is one thousand dollars ($1,000) per month or less, and the whole amount of damages claimed is fifteen thousand dollars ($15,000) or less.

(B) In all other actions to recover possession of real property where the rental value is one thousand dollars ($1,000) per month or less, and the whole amount claimed is fifteen thousand dollars ($15,000) or less.

(5) In all actions to enforce and foreclose liens on personal property where the amount of the liens is fifteen thousand dollars ($15,000) or less.

(6) In all actions to enforce and foreclose liens of mechanics, materialmen, artisans, laborers, and of all other persons to whom liens are given under the provisions of Chapter 2 (commencing with Section 3109) of Title 15 of Part 4 of Division 3 of the Civil Code, or to enforce and foreclose an assessment lien on a condominium created pursuant to Section 1356 of the Civil Code, where the amount of the liens is fifteen thousand dollars ($15,000) or less. However, where an action to enforce the lien is pending in a municipal or justice court, and affects property which is also affected by a similar action pending in a superior court, or where the total amount of the liens sought to be foreclosed against the same property by action or actions in a municipal or justice court aggregates an amount in excess of fifteen thousand dollars ($15,000) the municipal or justice court in which any such action, or actions, is, or are, pending, upon motion of any interested party, shall order the action or actions pending therein transferred to the proper superior court. Upon the making of the order, the same proceedings shall be taken as are provided by Section 399 with respect to the change of place of trial.

(7) In actions for declaratory relief when brought by way of cross-complaint as to a right of indemnity with respect to the relief demanded in the complaint or a cross-complaint in an action or proceeding otherwise within the jurisdiction of the municipal or justice court.

(8) To issue temporary restraining orders and preliminary injunctions, to take accounts, and to appoint receivers where necessary to preserve the property or rights of any party to an action of which the court has jurisdiction; to appoint a receiver and to make

any order or perform any act, pursuant to Title 9 (commencing with Section 680.010) of Part 2 (enforcement of judgments); to determine title to personal property seized in an action pending in such court.

(9) In all actions under Article 3 (commencing with Section 708.210) of Chapter 6 of Division 2 of Title 9 of Part 2 for the recovery of an interest in personal property or to enforce the liability of the debtor of a judgment debtor where the interest claimed adversely is of a value not exceeding fifteen thousand dollars ($15,000) or the debt denied does not exceed fifteen thousand dollars ($15,000).

(10) In all arbitration-related petitions filed pursuant to Article 2 (commencing with Section 1292) of Chapter 5 of Title 9 of Part 3, except for uninsured motorist arbitration proceedings in accordance with Section 11580.2 of the Insurance Code, if the petition is based upon the subject matter of a pending action properly filed in the municipal court.

(b) Each municipal and justice court has jurisdiction of cases in equity as follows:

(1) In all cases to try title to personal property when the amount involved is not more than fifteen thousand dollars ($15,000).

(2) In all cases when equity is pleaded as a defensive matter in any case otherwise properly pending in a municipal or justice court.

(3) To vacate a judgment or order of such municipal or justice court obtained through extrinsic fraud, mistake, inadvertence, or excusable neglect.

(c) In any action that is otherwise within its jurisdiction, the court may impose liability whether the theory upon which liability is sought to be imposed involves legal or equitable principles.

(d) Changes in the jurisdictional ceilings made by amendments to this section at the 1977–78 Regular Session of the Legislature shall not constitute a basis for the transfer to another court of any case pending at the time such changes become operative.

SEC. 2. Section 86 of the Code of Civil Procedure is amended to read:

86. (a) Each municipal and justice court has original jurisdiction of civil cases and proceedings as follows:

(1) In all cases at law in which the demand, exclusive of interest, or the value of the property in controversy amounts to twenty-five thousand dollars ($25,000) or less, except cases which involve the legality of any tax, impost, assessment, toll, or municipal fine, except the courts have jurisdiction in actions to enforce payment of delinquent unsecured personal property taxes if the legality of the tax is not contested by the defendant.

(2) In actions for dissolution of partnership where the total assets of the partnership do not exceed twenty-five thousand dollars ($25,000); in actions of interpleader where the amount of money or the value of the property involved does not exceed twenty-five thousand dollars ($25,000).

(3) In actions to cancel or rescind a contract when the relief is sought in connection with an action to recover money not exceeding

twenty-five thousand dollars ($25,000) or property of a value not exceeding twenty-five thousand dollars ($25,000), paid or delivered under, or in consideration of, the contract; in actions to revise a contract where the relief is sought in an action upon the contract if the court otherwise has jurisdiction of the action.

(4) In all proceedings in forcible entry or forcible or unlawful detainer:

(A) In actions to recover possession of real property where rent is charged, and the amount of the last rental charged is one thousand dollars ($1,000) per month or less, and the whole amount of damages claimed is twenty-five thousand dollars ($25,000) or less.

(B) In all other actions to recover possession of real property where the rental value is one thousand dollars ($1,000) per month or less, and the whole amount claimed is twenty-five thousand dollars ($25,000) or less.

(5) In all actions to enforce and foreclose liens on personal property where the amount of the liens is twenty-five thousand dollars ($25,000) or less.

(6) In all actions to enforce and foreclose liens of mechanics, materialmen, artisans, laborers, and of all other persons to whom liens are given under the provisions of Chapter 2 (commencing with Section 3109) of Title 15 of Part 4 of Division 3 of the Civil Code, or to enforce and foreclose an assessment lien on a condominium created pursuant to Section 1356 of the Civil Code, where the amount of the liens is twenty-five thousand dollars ($25,000) or less. However, where an action to enforce the lien is pending in a municipal or justice court, and affects property which is also affected by a similar action pending in a superior court, or where the total amount of the liens sought to be foreclosed against the same property by action or actions in a municipal or justice court aggregates an amount in excess of twenty-five thousand dollars ($25,000) the municipal or justice court in which any such action, or actions, is, or are, pending, upon motion of any interested party, shall order the action or actions pending therein transferred to the proper superior court. Upon the making of the order, the same proceedings shall be taken as are provided by Section 399 with respect to the change of place of trial.

(7) In actions for declaratory relief when brought by way of cross-complaint as to a right of indemnity with respect to the relief demanded in the complaint or a cross-complaint in an action or proceeding otherwise within the jurisdiction of the municipal or justice court.

(8) To issue temporary restraining orders and preliminary injunctions, to take accounts, and to appoint receivers where necessary to preserve the property or rights of any party to an action of which the court has jurisdiction; to appoint a receiver and to make any order or perform any act, pursuant to Title 9 (commencing with Section 680.010) of Part 2 (enforcement of judgments); to determine title to personal property seized in an action pending in such court.

(9) In all actions under Article 3 (commencing with Section 708.210) of Chapter 6 of Division 2 of Title 9 of Part 2 for the recovery of an interest in personal property or to enforce the liability of the debtor of a judgment debtor where the interest claimed adversely is of a value not exceeding twenty-five thousand dollars ($25,000) or the debt denied does not exceed twenty-five thousand dollars ($25,000).

(10) In all arbitration-related petitions filed pursuant to Article 2 (commencing with Section 1292) of Chapter 5 of Title 9 of Part 3, except for uninsured motorist arbitration proceedings in accordance with Section 11580.2 of the Insurance Code, if the petition is based upon the subject matter of a pending action properly filed in the municipal court.

(b) Each municipal and justice court has jurisdiction of cases in equity as follows:

(1) In all cases to try title to personal property when the amount involved is not more than twenty-five thousand dollars ($25,000).

(2) In all cases when equity is pleaded as a defensive matter in any case otherwise properly pending in a municipal or justice court.

(3) To vacate a judgment or order of such municipal or justice court obtained through extrinsic fraud, mistake, inadvertence, or excusable neglect.

(c) In any action that is otherwise within its jurisdiction, the court may impose liability whether the theory upon which liability is sought to be imposed involves legal or equitable principles.

(d) Changes in the jurisdictional ceilings made by amendments to this section at the 1977–78 Regular Session or the 1985–86 Regular Session of the Legislature shall not constitute a basis for the transfer to another court of any case pending at the time such changes become operative.

SEC. 3. Section 2 of this bill incorporates amendments to Section 86 of the Code of Civil Procedure proposed by both this bill and AB 82. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1986, (2) each bill amends Section 86 of the Code of Civil Procedure, and (3) this bill is enacted after AB 82, in which case Section 1 of this bill shall not become operative.

CHAPTER 880

An act to add Section 312.3 to the Penal Code, relating to crimes.

[Approved by Governor September 21, 1985 Filed with Secretary of State September 23, 1985.]

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

SECTION 1. Section 312.3 is added to the Penal Code, to read:

312.3. (a) Matter which depicts a person under the age of 17 years personally engaging in or personally simulating sexual conduct as defined in Section 311.4 and which is in the possession of any city, county, city and county, or state official or agency is subject to forfeiture pursuant to this section.

(b) An action to forfeit matter described in subdivision (a) may be brought by the Attorney General, the district attorney, county counsel, or the city attorney. Proceedings shall be initiated by a petition of forfeiture filed in the superior court of the county in which the matter is located.

(c) The prosecuting agency shall make service of process of a notice regarding that petition upon every individual who may have a property interest in the alleged proceeds, which notice shall state that any interested party may file a verified claim with the superior court stating the amount of their claimed interest and an affirmation or denial of the prosecuting agency's allegation. If the notices cannot be given by registered mail or personal delivery, the notice shall be published for at least three successive weeks in a newspaper of general circulation in the county where the property is located. All notices shall set forth the time within which a claim of interest in the property seized is required to be filed.

(d) (1) Any person claiming an interest in the property or proceeds may, at any time within 30 days from the date of the first publication of the notice of seizure, or within 30 days after receipt of actual notice, file with the superior court of the county in which the action is pending a verified claim stating his or her interest in the property or proceeds. A verified copy of the claim shall be given by the claimant to the Attorney General or district attorney, county counsel, or city attorney, as appropriate.

(2) If, at the end of the time set forth in paragraph (1), an interested person has not filed a claim, the court, upon motion, shall declare that the person has defaulted upon his or her alleged interest, and it shall be subject to forfeiture upon proof of compliance with subdivision (c).

(e) The burden shall be on the petitioner to prove beyond a reasonable doubt that matter is subject to forfeiture pursuant to this section.

(f) It shall not be necessary to seek or obtain a criminal conviction prior to the entry of an order for the destruction of matter pursuant to this section. Any matter described in subdivision (a) which is in the possession of any city, county, city and county, or state official or agency, including found property, or property obtained as the result of a case in which no trial was had or which has been disposed of by way of dismissal or otherwise than by way of conviction may be ordered destroyed.

(g) A court order for destruction of matter described in subdivision (a) may be carried out by a police or sheriff's department or by the Department of Justice. The court order shall specify the

agency responsible for the destruction.

(h) As used in this section, "matter" means any book, magazine, newspaper, or other printed or written material or any picture, drawing, photograph, motion picture, or other pictorial representation, or any statue or other figure, or any recording, transcription or mechanical, chemical or electrical reproduction, or any other articles, equipment, machines, or materials.

(i) This section shall not apply where the minor depicted is lawfully emancipated, including lawful conduct between spouses when one or more are under the age of 17.

(j) It shall be a defense in any forfeiture proceeding that the matter seized was lawfully possessed in aid of legitimate scientific or educational purposes.

CHAPTER 881

An act relating to criminal law, and making an appropriation therefor.

[Approved by Governor September 21, 1985. Filed with Secretary of State September 23, 1985.]

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

SECTION 1. The sum of ninety-eight thousand dollars ($98,000) is hereby appropriated from the Peace Officers' Training Fund in augmentation of Item 8120-001-268 of the Budget Act of 1985, for the provision of a study, to be submitted to the Legislature by December 31, 1986, of the circumstances under which peace officers are killed in the course of their employment. The study shall include the preparation of guidelines establishing optional standard procedures which may be followed by law enforcement agencies to better enable peace officers to deal with these situations. The basic course of training for law enforcement officers shall include adequate instruction in these standard procedures.

CHAPTER 882

An act to amend Sections 15032 and 15043 of, and to add Section 15056.6 to, the Unemployment Insurance Code, relating to employment.

[Approved by Governor September 21, 1985. Filed with Secretary of State September 23, 1985.]

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

SECTION 1. 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 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 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.

For purposes of this subdivision, nontraditional employment in the private sector for women shall be deemed to include employment in any occupation in which not more than 25 percent of the employees are 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. 2. 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 child care needs of participants eligible for services under this division, including an assessment of the role of employers in reducing this barrier to participation.

(i) Assurance that economically disadvantaged women and minorities will be served with federal Job Training Partnership Act funds, with respect to Title I and Title II of the act, at a rate that approximates their rate of representation and need for job training among the economically disadvantaged within each service delivery area. If the goals of the plan are not designed to comply with this subdivision, the private industry council shall submit its justification for noncompliance to the State Job Training Coordinating Council and the Governor.

(j) Assurance that subdivision (g) of Section 15032 is adhered to within each service delivery area. Each service delivery area shall specify its plan for adhering with subdivision (g) of Section 15032, including, but not limited to, outreach to the target population.

SEC. 3. Section 15056.6 is added to the Unemployment Insurance Code, to read:

15056.6. In order to ensure compliance with subdivision (g) of Section 15032, and subdivision (j) of Section 15043, the department shall provide training and technical assistance to service delivery areas in developing nontraditional employment training programs for women.

CHAPTER 883

An act to amend Sections 66434, 66445, and 66470 of, and to add Section 66434.2 to, the Government Code, relating to subdivision maps.

[Approved by Governor September 21, 1985. Filed with Secretary of State September 23, 1985.]

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

SECTION 1. Section 66434 of the Government Code is amended to read:

66434. The final map shall be prepared by or under the direction of a registered civil engineer or licensed land surveyor, shall be based upon a survey, 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, affidavits, and acknowledgments 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) All survey and mathematical information and data necessary to locate all monuments and to locate and retrace any and all interior and exterior boundary lines appearing thereon shall be shown, including bearings and distances of straight lines, and radii and arc length or chord bearings and length for all curves, and such information as may be necessary to determine the location of the centers of curves and ties to existing monuments used to establish the subdivision boundaries.

(d) Each parcel shall be numbered and each block may be numbered or lettered. Each street shall be named.

(e) The exterior boundary of the land included within the subdivision shall be indicated by distinctive symbols and clearly so designated. The map shall show the definite location of the subdivision, and particularly 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 boundaries of such remainder if such remainder has a gross area of five acres or more.

(f) On and after January 1, 1987, no additional requirements shall be included which do not affect record title interests. However, the

map shall contain a notation or reference to additional information required by a local ordinance adopted pursuant to Section 66434.2.

SEC. 1.5. Section 66434 of the Government Code is amended to read:

66434. The final map shall be prepared by or under the direction of a registered civil engineer or licensed land surveyor, shall be based upon a survey, 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, affidavits, and acknowledgments 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) All survey and mathematical information and data necessary to locate all monuments and to locate and retrace any and all interior and exterior boundary lines appearing thereon shall be shown, including bearings and distances of straight lines, and radii and arc length or chord bearings and length for all curves, and any information which may be necessary to determine the location of the centers of curves and ties to existing monuments used to establish the subdivision boundaries.

(d) Each parcel shall be numbered and each block may be numbered or lettered. Each street shall be named or otherwise designated.

(e) The exterior boundary of the land included within the subdivision shall be indicated by distinctive symbols and clearly so designated. The map shall show the definite location of the subdivision, and particularly its relation to surrounding surveys.

If the map includes a "designated remainder" parcel, and the gross area of the "designated remainder" parcel or similar parcel is five acres or more, that remainder parcel need not be shown on the map and its location need not be indicated as a matter of survey, but only by deed reference to the existing boundaries of the remainder parcel.

A parcel designated as "not a part" shall be deemed to be a "designated remainder" for purposes of this section.

(f) The map shall conform to any additional survey and map requirements of local ordinances. On and after January 1, 1987, no additional requirements shall be included which do not affect record title interests. However, the map shall contain a notation or reference to additional information required by a local ordinance adopted pursuant to Section 66434.2.

SEC. 2. Section 66434.2 is added to the Government Code, to read:

66434.2. (a) On or after January 1, 1987, a city or county may, by ordinance, require additional information to be filed or recorded simultaneously with a final or parcel map. The additional information shall be in the form of a separate document or an additional map sheet which shall indicate its relationship to the final or parcel map, and shall contain a statement that the additional information is for informational purposes, describing conditions as of the date of filing, and is not intended to affect record title interest. The document or additional map sheet may also contain a notation that the additional information is derived from public records or reports, and does not imply the correctness or sufficiency of those records or reports by the preparer of the document or additional map sheet.

(b) Additional survey and map information may include, but need not be limited to: building setback lines, flood hazard zones, seismic lines and setbacks, geologic mapping, and archaeological sites.

SEC. 3. 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.

Notwithstanding any other provision of this article, local agencies may require that those certificates and acknowledgments required pursuant to this subdivision be made by separate instrument to be recorded concurrently with the parcel map being filed for record.

(g) On and after January 1, 1987, no additional survey and map requirements shall be included on a parcel map which do not affect record title interests. However, the map shall contain a notation or reference to survey and map information required by a local ordinance adopted pursuant to Section 66434.2.

(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. 3.5. 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, affidavits, and acknowledgments 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 and each block may be numbered or lettered. Each street shall be named or otherwise designated.

(d) The exterior boundary of the land included within the subdivision shall be indicated by distinctive symbols and clearly so designated.

The map shall show the location of each parcel and its relation to surrounding surveys. If the map includes a "designated remainder" parcel or similar parcel, and the gross area of the "designated remainder" parcel or similar parcel is five acres or more, that remainder parcel need not be shown on the map and its location need not be indicated as a matter of survey, but only by deed reference to the existing boundaries of the remainder parcel.

A parcel designated as "not a part" shall be deemed to be a "designated remainder" for purposes of this section.

(e) 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.

(f) Notwithstanding any other provision of this article, local agencies may require that those certificates and acknowledgments required pursuant to subdivision (e) be made by separate instrument to be recorded concurrently with the parcel map being filed for record.

(g) On and after January 1, 1987, no additional survey and map requirements shall be included on a parcel map which do not affect record title interests. However, the map shall contain a notation or

reference to survey and map information required by a local ordinance adopted pursuant to Section 66434.2.

(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. 4. Section 66470 of the Government Code is amended to read:

66470. The amending map or certificate of correction shall be prepared and signed by a registered civil engineer or licensed land surveyor. An amending map shall conform to the requirements of Section 66434, if a final map, or Section 66445, if a parcel map. The amending map or certificate of correction shall set forth in detail the corrections made and show the names of the present fee owners of the property affected by the correction or omission. Upon recordation of a certificate of correction, the county recorder shall within 60 days of recording transmit a certified copy to the county surveyor or county engineer who shall maintain an index of recorded certificates of correction.

The county recorder may charge a fee, in addition to the fee charged for recording the certificate of correction, which shall be transmitted to the county surveyor or the county engineer, as compensation for the cost of maintaining an index of recorded certificates of correction. The amount of this additional fee shall not exceed the fee which is charged for recording the certificate of correction.

If the property affected by a map is located within a city, the county recorder shall, upon request of the city engineer, provide copies of recorded certificates of correction to the city engineer.

SEC. 5. It is the intent of the Legislature, if this bill and SB 756 are both chaptered and become effective January 1, 1986, both bills amend Section 66434 of the Government Code, and this bill is chaptered after SB 756, that the amendments to Section 66434 proposed by both bills be given effect and incorporated in Section 66434 in the form set forth in Section 1.5 of this act. Therefore, Section 1.5 of this act shall become operative only if this bill and SB 756 are both chaptered and become effective January 1, 1986, both amend Section 66434, and this bill is chaptered after SB 756, in which case Section 1 of this act shall not become operative.

SEC. 6. It is the intent of the Legislature, if this bill and SB 756 are both chaptered and become effective January 1, 1986, both bills amend Section 66445 of the Government Code, and this bill is

chaptered after SB 756, that the amendments to Section 66445 proposed by both bills be given effect and incorporated in Section 66445 in the form set forth in Section 3.5 of this act. Therefore, Section 3.5 of this act shall become operative only if this bill and SB 756 are both chaptered and become effective January 1, 1986, both amend Section 66445, and this bill is chaptered after SB 756, in which case Section 3 of this act shall not become operative.

SEC. 7. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution 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 884

An act to amend Sections 700, 701, and 765 of the Evidence Code, relating to evidence.

[Approved by Governor September 21, 1985. Filed with Secretary of State September 23, 1985.]

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

SECTION 1. Section 700 of the Evidence Code is amended to read:

700. Except as otherwise provided by statute, every person, irrespective of age, is qualified to be a witness and no person is disqualified to testify to any matter.

SEC. 2. Section 701 of the Evidence Code is amended to read:

701. (a) A person is disqualified to be a witness if he or she is:

(1) Incapable of expressing himself or herself concerning the matter so as to be understood, either directly or through interpretation by one who can understand him; or

(2) Incapable of understanding the duty of a witness to tell the truth.

(b) In any proceeding held outside the presence of a jury, the court may reserve challenges to the competency of a witness until the conclusion of the direct examination of that witness.

SEC. 3. Section 765 of the Evidence Code is amended to read:

765. (a) The court shall exercise reasonable control over the mode of interrogation of a witness so as to make such interrogation as rapid, as distinct, and as effective for the ascertainment of the truth, as may be, and to protect the witness from undue harassment or embarrassment.

(b) With a witness under the age of 14, the court shall take special care to protect him or her from undue harassment or embarrassment, and to restrict the unnecessary repetition of questions.

CHAPTER 885

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

[Approved by Governor September 21, 1985. Filed with Secretary of State September 23, 1985.]

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

SECTION 1. The Department of General Services, in consultation with the Department of Corrections, shall assess the technical and economic potential for cost-effective utilization of nonconventional thermal and electrical energy by new prison complexes. This study shall include, but not be limited to, an assessment of the potential for utilizing wind-generated electricity at the Tehachapi and Vacaville prison complexes and solar energy and cogeneration at the San Diego prison complex.

The department shall submit its study to the Legislature no later than January 1, 1986.

SEC. 2. It is the intent of the Legislature that the study required by this act not delay the activation of new state prisons.

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 expeditiously implement cost and resource conserving technologies in California's prison building program, it is necessary that this act go into immediate effect.

CHAPTER 886

An act to add Section 30514.1 to the Public Resources Code, relating to the coastal zone.

[Approved by Governor September 21, 1985. Filed with Secretary of State September 23, 1985.]

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

SECTION 1. Section 30514.1 is added to the Public Resources Code, to read:

30514.1. The commission shall adopt the findings or provide a written explanation or written notice, as appropriate, required by Sections 30512, 30512.1, 30512.2, and 30513 to support its action no later than 60 days after the date on which action was taken.

CHAPTER 887

An act to amend Section 44940 of the Education Code, relating to certificated employees.

[Approved by Governor September 21, 1985. Filed with Secretary of State September 23, 1985.]

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

SECTION 1. Section 44940 of the Education Code is amended to read:

44940. Whenever any certificated employee of a school district is charged with the commission of any sex offense as defined in Section 44010 by complaint, information, or indictment filed in a court of competent jurisdiction, the governing board of the school district shall immediately place the employee upon compulsory leave of absence for a period of time extending for not more than 10 days after the date of the entry of the judgment in the proceedings. The employee's teaching or service credential shall be automatically suspended for the same period of time. The governing board of the school district may extend the compulsory leave of absence of the employee beyond the period by giving notice to the employee within 10 days after the entry of judgment in the proceedings that the employee will be dismissed at the expiration of 30 days from the date of service of the notice, unless the employee demands a hearing as provided in this article.

Any employee placed upon compulsory leave of absence pursuant to this section shall continue to be paid his or her regular salary during the period of his or her compulsory leave of absence if and during that time he or she furnishes to the school district a suitable bond, or other security acceptable to the governing board, as a guarantee that the employee will repay to the school district the amount of salary so paid to him or her during the period of the compulsory leave of absence in case the employee is convicted of the charges, or fails or refuses to return to service following an acquittal of the offense or dismissal of the charges. If the employee is acquitted of the offense, or the charges against the employee are dismissed, the school district shall reimburse the employee for the cost of the bond upon his or her return to service in the school district.

If the employee does not elect to furnish bond, or other security acceptable to the governing board of the district, and if the employee is acquitted of the offense, or the charges against him or her are dismissed, the school district shall pay to the employee his or her full compensation for the period of the compulsory leave of absence upon his or her return to service in the school district.

Whenever any certificated employee of a school district is charged with the commission of any controlled substance offense as defined in Section 44011 or 87011, or a violation or attempted violation of

Section 187 of the Penal Code, or Sections 11357 to 11361, inclusive, 11363, or 11364 of the Health and Safety Code, insofar as these sections relate to any controlled substances except marijuana, mescaline, peyote, or tetrahydrocannabinols, by complaint, information, or indictment filed in a court of competent jurisdiction, the governing board of the school district may immediately place the employee upon compulsory leave in accordance with the procedure in this section.

For purposes of this section, the term "school district" includes county offices of education.

Any action taken pursuant to this section by a governing board shall be reported immediately to the Commission for Teacher Preparation and Licensing. The commission shall give priority to the investigation and resolution of such cases.

CHAPTER 888

An act to amend Sections 777, 779, 780, 10009, 10010, 12822, 12823, 16481, and 16482 of, and to add Sections 779.1, 10010.1, 12823.1, and 16482.1 to, the Public Utilities Code, relating to public utilities.

[Approved by Governor September 21, 1985 Filed with Secretary of State September 23, 1985.]

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

SECTION 1. This act is intended to establish minimum standards for procedural safeguards applicable to utility shutoffs, notices, and billing disputes by all providers of utility service, whether investor-owned or publicly owned. Nothing in this act prevents a municipal utility, a public utility district, or a municipal utility district, or, with the approval of the Public Utilities Commission, an investor-owned public utility from giving customers more information, giving longer periods of time for customer response, providing more notice for customers, providing additional opportunities for a customer to be heard, or providing additional reasons for not terminating service.

SEC. 2. Section 777 of the Public Utilities Code is amended to read:

777. (a) Whenever an electrical, gas, heat, or water corporation furnishes residential service through a master meter or whenever individually metered residential service is furnished in a multiunit residential structure, mobilehome park, or farm labor camp where the owner, manager, or farm labor employer is listed by the corporation as the customer of record, the corporation shall make every good faith effort to inform the residents, by means of a notice, that service will be terminated at least 10 days prior to termination. The notice shall further inform the residents that they have the right

to become customers, to whom the service will then be billed, without being required to pay any amount which may be due on the delinquent account.

(b) The corporation is not required to make service available to the residents unless each resident agrees to the terms and conditions of service and meets the requirements of the corporation's rules and tariffs. However, if one or more residents are willing and able to assume responsibility for the entire account to the satisfaction of the corporation, or if there is a physical means, legally available to the corporation, of selectively terminating service to those residents who have not met the requirements of the corporation's rules and tariffs, the corporation shall make service available to those residents who have met those requirements.

(c) Where prior service for a period of time is a condition for establishing credit with the corporation, residence and proof of prompt payment of rent for that period of time is a satisfactory equivalent.

(d) Any resident who becomes a customer of the corporation pursuant to this section whose periodic payments, such as rental payments, include charges for residential electrical, gas, heat, or water service, where those charges are not separately stated, may deduct from the periodic payment each payment period all reasonable charges paid to the corporation for those services during the preceding payment period.

SEC. 3. Section 779 of the Public Utilities Code is amended to read:

779. (a) No electrical, gas, heat, or water corporation may terminate residential service for nonpayment of a delinquent account unless the corporation first gives notice of the delinquency and impending termination, as provided in Section 779.1.

(b) No electrical, gas, heat, or water corporation may terminate residential service for nonpayment in any of the following situations:

(1) During the pendency of an investigation by the corporation of a customer or subscriber dispute or complaint.

(2) When a customer has been granted an extension of the period for payment of a bill.

(3) On the certification of a licensed physician and surgeon that to do so will be life threatening to the customer and the customer is financially unable to pay for service within the normal payment period and is willing to enter into an amortization agreement with the corporation pursuant to subdivision (e) with respect to all charges that the customer is unable to pay prior to delinquency.

(c) Any residential customer who has initiated a complaint or requested an investigation within five days of receiving the disputed bill, or who has, before termination of service, made a request for extension of the payment period of a bill asserted to be beyond the means of the customer to pay in full within the normal period for payment, shall be given an opportunity for review of the complaint, investigation, or request by a review manager of the corporation.

The review shall include consideration of whether the customer shall be permitted to amortize any unpaid balance of the delinquent account over a reasonable period of time, not to exceed 12 months. No termination of service shall be effected for any customer complying with an amortization agreement, if the customer also keeps the account current as charges accrue in each subsequent billing period.

(d) Any customer whose complaint or request for an investigation pursuant to subdivision (c) has resulted in an adverse determination by the corporation may appeal the determination to the commission. Any subsequent appeal of the dispute or complaint to the commission is not subject to this section.

(e) Any customer meeting the requirements of paragraph (3) of subdivision (b) shall, upon request, be permitted to amortize, over a period not to exceed 12 months, the unpaid balance of any bill asserted to be beyond the means of the customer to pay within the normal period for payment.

SEC. 4. Section 779.1 is added to the Public Utilities Code, to read:

779.1. (a) Every electrical, gas, heat, or water corporation shall allow every residential customer at least 19 days from the date of mailing its bill for services, postage prepaid, for payment of the charges demanded. No corporation subject to this section may terminate residential service for nonpayment of a delinquent account unless the corporation first gives notice of the delinquency and impending termination, at least 10 days prior to the proposed termination, by means of a notice mailed, postage prepaid, to the customer to whom the service is billed, not earlier than 19 days from the date of mailing the corporation's bill for services, and the 10-day period shall not commence until five days after the mailing of the notice.

(b) Every corporation shall make a reasonable attempt to contact an adult person residing at the premises of the customer by telephone or in person at least 24 hours prior to any termination of service, except that, whenever telephone or personal contact cannot be accomplished, the corporation shall post, in a conspicuous location at the premises, a notice of termination of service at least 48 hours prior to termination.

(c) Every notice of termination of service pursuant to subdivision (a) or (b) shall include all of the following information:

(1) The name and address of the customer whose account is delinquent.

(2) The amount of the delinquency.

(3) The date by which payment or arrangements for payment is required in order to avoid termination.

(4) The procedure by which the customer may initiate a complaint or request an investigation concerning service or charges.

(5) The procedure by which the customer may request amortization of the unpaid charges.

(6) The procedure for the customer to obtain information on the availability of financial assistance, including private, local, state, or federal sources, if applicable.

(7) The telephone number of a representative of the corporation who can provide additional information or institute arrangements for payment.

(8) The telephone number of the commission to which inquiries by the customer may be directed.

All written notices shall be in a clear and legible format.

(d) Any residential customer whose complaint or request for an investigation has resulted in an adverse determination by the corporation may appeal the determination to the commission. Any subsequent appeal of the dispute or complaint to the commission is not subject to this section.

(e) If a residential customer fails to comply with an amortization agreement, the corporation shall not terminate service without giving notice to the customer at least 48 hours prior to termination of the conditions the customer is required to meet to avoid termination, but this notice does not entitle the customer to further investigation by the corporation.

(f) No termination of service may be effected without compliance with this section, and any service wrongfully terminated shall be restored without charge for the restoration of service.

SEC. 5. Section 780 of the Public Utilities Code is amended to read:

780. No electrical, gas, heat, or water corporation shall, by reason of delinquency in the payment of its charges, terminate service on any Saturday, Sunday, legal holiday, or at any time during which the business offices of the corporation are not open to the public.

SEC. 6. Section 10009 of the Public Utilities Code is amended to read:

10009. (a) Whenever a public utility furnishes residential light, heat, water, or power through a master meter, or furnishes individually metered service in a multiunit residential structure, mobilehome park, or farm labor camp where the owner, manager, or farm labor employer is listed by the public utility as the customer of record, the public utility shall make every good faith effort to inform the actual users of the utility services, by means of a notice, when the account is in arrears, that service will be terminated in 10 days. The notice shall further inform the actual users that they have the right to become utility customers without being required to pay the amount due on the delinquent account.

(b) The public utility is not required to make service available to the actual users unless each actual user agrees to the terms and conditions of service, and meets the requirements of the public utility's rules and tariffs. However, if one or more actual users are willing and able to assume responsibility for the entire account to the satisfaction of the public utility, or if there is a physical means, legally available to the public utility, of selectively terminating service to

those actual users who have not met the requirements of the public utility's rules and tariffs, the public utility shall make service available to the actual users who have met those requirements.

(c) Where prior service for a period of time is a condition for establishing credit with the public utility, residence and proof of prompt payment of rent for that period of time is a satisfactory equivalent.

(d) Any actual user who becomes a customer of the public utility pursuant to this section whose periodic payments, such as rental payments, include charges for residential light, heat, water, or power, where these charges are not separately stated, may deduct from the periodic payment each payment period all reasonable charges paid to the public utility for those services during the preceding payment period.

SEC. 7. Section 10010 of the Public Utilities Code is amended to read:

10010. (a) No public utility furnishing light, water, power, or heat may terminate residential service for nonpayment of a delinquent account unless the public utility first gives notice of the delinquency and impending termination, as provided in Section 10010.1.

(b) No public utility shall terminate residential service for nonpayment in any of the following situations:

(1) During the pendency of an investigation by the public utility of a customer dispute or complaint.

(2) When a customer has been granted an extension of the period for payment of a bill.

(3) On the certification of a licensed physician and surgeon that to do so will be life threatening to the customer and the customer is financially unable to pay for service within the normal payment period and is willing to enter into an amortization agreement with the public utility pursuant to subdivision (e) with respect to all charges that the customer is unable to pay prior to delinquency.

(c) Any residential customer who has initiated a complaint or requested an investigation within five days of receiving the disputed bill, or who has, within 13 days of mailing of the notice required by subdivision (a), made a request for extension of the payment period of a bill asserted to be beyond the means of the customer to pay in full during the normal period for payment, shall be given an opportunity for review of the complaint, investigation, or request by a review manager of the public utility. The review shall include consideration of whether the customer shall be permitted to amortize the unpaid balance of the account over a reasonable period of time, not to exceed 12 months. No termination of service shall be effected for any customer complying with the amortization agreement, if the customer also keeps the account current as charges accrue in each subsequent billing period.

(d) Any customer whose complaint or request for an investigation pursuant to subdivision (c) has resulted in an adverse determination

by the public utility may appeal the determination to the governing body of the municipal corporation. Any subsequent appeal of the dispute or complaint to the governing body is not subject to this section.

(e) Any customer meeting the requirements of paragraph (3) of subdivision (b) shall, upon request, be permitted to amortize, over a period not to exceed 12 months, the unpaid balance of any bill asserted to be beyond the means of the customer to pay within the normal period for payment.

SEC. 8. Section 10010.1 is added to the Public Utilities Code, to read:

10010.1. (a) No public utility furnishing light, heat, water, or power may terminate residential service on account of nonpayment of a delinquent account unless the public utility first gives notice of the delinquency and impending termination, at least 10 days prior to the proposed termination, by means of a notice mailed, postage prepaid, to the customer to whom the service is billed, not earlier than 19 days from the date of mailing the public utility's bill for services, and the 10-day period shall not commence until five days after the mailing of the notice.

(b) Every public utility shall make a reasonable, good faith effort to contact an adult person residing at the premises of the customer by telephone or in person at least 48 hours prior to any termination of service.

(c) Every notice of termination of service pursuant to subdivision (a) shall include all of the following information:

(1) The name and address of the customer whose account is delinquent.

(2) The amount of the delinquency.

(3) The date by which payment or arrangements for payment is required in order to avoid termination.

(4) The procedure by which the customer may initiate a complaint or request an investigation concerning service or charges, except that if the bill for service contains a description of that procedure, the notice pursuant to subdivision (a) is not required to contain that information.

(5) The procedure by which the customer may request amortization of the unpaid charges.

(6) The procedure for the customer to obtain information on the availability of financial assistance, including private, local, state, or federal sources, if applicable.

(7) The telephone number of a representative of the public utility who can provide additional information or institute arrangements for payment.

Every notice of termination of service pursuant to subdivision (b) shall include the items of information in paragraphs (1), (2), (3), (6), and (7).

All written notices shall be in a clear and legible format.

(d) If a residential customer fails to comply with an amortization

agreement, the public utility shall not terminate service without giving notice to the customer at least 48 hours prior to termination of the conditions the customer is required to meet to avoid termination, but the notice does not entitle the customer to further investigation by the public utility.

(e) No termination of service may be effected without compliance with this section, and any service wrongfully terminated shall be restored without charge for the restoration of service.

SEC. 9. Section 12822 of the Public Utilities Code is amended to read:

12822. (a) Whenever a district furnishes residential light, heat, water, or power through a master meter, or furnishes individually metered service in a multiunit residential structure, mobilehome park, or farm labor camp where the owner, manager, or farm labor employer is listed by the district as the customer of record of the service, the district shall make every good faith effort to inform the actual users of the services, when the account is in arrears, by means of a notice, that service will be terminated in 10 days. The notice shall further inform the actual users that they have the right to become customers of the district without being required to pay the amount due on the delinquent account.

(b) The district is not required to make service available to the actual users unless each actual user agrees to the terms and conditions of service, and meets the requirements of the district's rules and tariffs. However, if one or more actual users are willing and able to assume responsibility for the entire account to the satisfaction of the district, or if there is a physical means, legally available to the district, of selectively terminating service to those actual users who have not met the requirements of the district's rules and tariffs, the district shall make service available to the actual users who have met those requirements.

(c) Where prior service for a period of time is a condition for establishing credit with the district, residence and proof of prompt payment of rent for that period of time is a satisfactory equivalent.

(d) Any actual user who becomes a customer of the district pursuant to this section whose periodic payments, such as rental payments, include charges for residential light, heat, water, or power, where these charges are not separately stated, may deduct from the periodic payment each payment period all reasonable charges paid to the district for those services during the preceding payment period.

SEC. 10. Section 12823 of the Public Utilities Code is amended to read:

12823. (a) No district furnishing its inhabitants with light, water, power, or heat may terminate residential service for nonpayment of a delinquent account unless the district first gives notice of the delinquency and impending termination, as provided in Section 12823.

(b) No district shall terminate residential service for nonpayment

in any of the following situations:

(1) During the pendency of an investigation by the district of a customer dispute or complaint.

(2) When a customer has been granted an extension of the period for payment of a bill.

(3) On the certification of a licensed physician and surgeon that to do so will be life threatening to the customer and the customer is financially unable to pay for service within the normal payment period and is willing to enter into an amortization agreement with the district pursuant to subdivision (e) with respect to all charges that the customer is unable to pay prior to delinquency.

(c) Any residential customer who has initiated a complaint or requested an investigation within five days of receiving the disputed bill, or who has, within 13 days of mailing of the notice required by subdivision (a), made a request for extension of the payment period of a bill asserted to be beyond the means of the customer to pay in full during the normal period for payment, shall be given an opportunity for review of the complaint, investigation, or request by a review manager of the district. The review shall include consideration of whether the customer shall be permitted to amortize the unpaid balance of the account over a reasonable period of time, not to exceed 12 months. No termination of service shall be effected for any customer complying with an amortization agreement, if the customer also keeps the account current as charges accrue in each subsequent billing period.

(d) Any customer whose complaint or request for an investigation pursuant to subdivision (c) has resulted in an adverse determination by the district may appeal the determination to the board. Any subsequent appeal of the dispute or complaint to the board is not subject to this section.

(e) Any customer meeting the requirements of paragraph (3) of subdivision (b) shall, upon request, be permitted to amortize, over a period not to exceed 12 months, the unpaid balance of any bill asserted to be beyond the means of the customer to pay within the normal period for payment.

SEC. 11. Section 12823.1 is added to the Public Utilities Code, to read:

12823.1. (a) No district furnishing light, heat, water, or power may terminate residential service on account of nonpayment of a delinquent account unless the district first gives notice of the delinquency and impending termination, at least 10 days prior to the proposed termination, by means of a notice mailed, postage prepaid, to the customer to whom the service is billed not earlier than 19 days from the date of mailing the district's bill for services, and the 10-day period shall not commence until five days after the mailing of the notice.

(b) Every district shall make a reasonable, good faith effort to contact an adult person residing at the premises of the customer by telephone or in person at least 48 hours prior to any termination of

service.

(c) Every notice of termination of service pursuant to subdivision (a) shall include all of the following information:

(1) The name and address of the customer whose account is delinquent.

(2) The amount of the delinquency.

(3) The date by which payment or arrangements for payment is required in order to avoid termination.

(4) The procedure by which the customer may initiate a complaint or request an investigation concerning service or charges, except that if the bill for service contains a description of that procedure, the notice pursuant to subdivision (a) is not required to contain that information.

(5) The procedure by which the customer may request amortization of the unpaid charges.

(6) The procedure for the customer to obtain information on the availability of financial assistance, including private, local, state, or federal sources, if applicable.

(7) The telephone number of a representative of the district who can provide additional information or institute arrangements for payment.

Every notice of termination of service pursuant to subdivision (b) shall include the items of information in paragraphs (1), (2), (3), (6), and (7).

All written notices shall be in a clear and legible format.

(d) If a residential customer fails to comply with an amortization agreement, the district shall not terminate service without giving notice to the customer at least 48 hours prior to termination of the conditions the customer is required to meet to avoid termination, but the notice does not entitle the customer to further investigation by the district.

(e) No termination of service may be effected without compliance with this section, and any service wrongfully terminated shall be restored without charge for the restoration of service.

SEC. 12. Section 16481 of the Public Utilities Code is amended to read:

16481. (a) Whenever a district furnishes residential light, heat, water, or power through a master meter, or furnishes individually metered service in a multiunit residential structure, mobilehome park, or farm labor camp where the owner, manager, or farm labor employer is listed by the district as the customer of record, the district shall make every good faith effort to inform the actual users of the services, by means of a notice, when the account is in arrears, that service will be terminated in 10 days. The notice shall further inform the actual users that they have the right to become customers of the district without being required to pay the amount due on the delinquent account.

(b) The district is not required to make service available to the actual users unless each actual user agrees to the terms and

conditions of service, and meets the requirements of the district's rules and tariffs. However, if one or more actual users are willing and able to assume responsibility for the entire account to the satisfaction of the district, or if there is a physical means, legally available to the district, of selectively terminating service to those actual users who have not met the requirements of the district's rules and tariffs, the district shall make service available to the actual users who have met those requirements.

(c) Where prior service for a period of time is a condition for establishing credit with the district, residence and proof of prompt payment of rent for that period of time is a satisfactory equivalent.

(d) Any actual user who becomes a customer of the district pursuant to this section whose periodic payments, such as rental payments, include charges for residential light, heat, water, or power, where these charges are not separately stated, may deduct from the periodic payment each payment period all reasonable charges paid to the district for those services during the preceding payment period.

SEC. 13. Section 16482 of the Public Utilities Code is amended to read:

16482. (a) No district furnishing its inhabitants with light, water, power, heat, or means for the disposition of garbage, sewage, or refuse matter may terminate residential service for nonpayment of a delinquent account unless the district first gives notice of the delinquency and impending termination, as provided in Section 16482.1.

(b) No district shall terminate residential service for nonpayment in any of the following situations:

(1) During the pendency of an investigation by the district of a customer dispute or complaint.

(2) When a customer has been granted an extension of the period for payment of a bill.

(3) On the certification of a licensed physician and surgeon that to do so will be life threatening to the customer and the customer is financially unable to pay for service within the normal payment period and is willing to enter into an amortization agreement with the district pursuant to subdivision (e) with respect to all charges that the customer is unable to pay prior to delinquency.

(c) Any residential customer who has initiated a complaint or requested an investigation within five days of receiving the contested bill, or who has, within 13 days of mailing of the notice required by subdivision (a), made a request for extension of the payment period of a bill asserted to be beyond the means of the customer to pay in full during the normal period for payment, shall be given an opportunity for review of the complaint, investigation, or request by a review manager of the district. The review shall include consideration of whether the customer shall be permitted to amortize the unpaid balance of the account over a reasonable period of time, not to exceed 12 months. No termination of service shall be

effected for any customer complying with an amortization agreement if the customer also keeps the account current as charges accrue in each subsequent billing period.

(d) Any customer whose complaint or request for an investigation pursuant to subdivision (c) has resulted in an adverse determination by the district may appeal the determination to the board. Any subsequent appeal of the dispute or complaint to the board is not subject to this section.

(e) Any customer meeting the requirements of paragraph (3) of subdivision (b) shall, upon request, be permitted to amortize, over a period not to exceed 12 months, the unpaid balance of any bill asserted to be beyond the means of the customer to pay within the normal period for payment.

SEC. 14. Section 16482.1 is added to the Public Utilities Code, to read:

16482.1. (a) No district furnishing light, heat, water, or power, or means for the disposition of garbage, sewage, or refuse matter, may terminate residential service on account of nonpayment of a delinquent account unless the district first gives notice of the delinquency and impending termination, at least 10 days prior to the proposed termination, by means of a notice mailed, postage prepaid, to the customer to whom the service is billed, not earlier than 19 days from the date of mailing the district's bill for services, and the 10-day period shall not commence until five days after the mailing of the notice.

(b) Every district shall make a reasonable, good faith effort to contact an adult person residing at the premises of the customer by telephone or in person at least 48 hours prior to any termination of service.

(c)' Every notice of termination of service pursuant to subdivision (a) shall include all of the following information:

(1) The name and address of the customer whose account is delinquent.

(2) The amount of the delinquency.

(3) The date by which payment or arrangements for payment is required in order to avoid termination.

(4) The procedure by which the customer may initiate a complaint or request an investigation concerning service or charges, except that if the bill for service contains a description of that procedure, the notice pursuant to subdivision (a) is not required to contain that information.

(5) The procedure by which the customer may request amortization of the unpaid charges.

(6) The procedure for the customer to obtain information on the availability of financial assistance, including private, local, state, or federal sources, if applicable.

(7) The telephone number of a representative of the district who can provide additional information or institute arrangements for payment.

Every notice of termination of service pursuant to subdivision (b) shall include the items of information in paragraphs (1), (2), (3), (6), and (7).

All written notices shall be in a clear and legible format.

(d) If a residential customer fails to comply with an amortization agreement, the district shall not terminate service without giving notice to the customer at least 48 hours prior to termination of the conditions the customer is required to meet to avoid termination, but this notice does not entitle the customer to further investigation by the district.

(e) No termination of service may be effected without compliance with this section, and any service wrongfully terminated shall be restored without charge for the restoration of the service.

SEC. 15. No reimbursement is required by this act pursuant to 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 incurred either 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, or 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 889

An act to amend Sections 61405 and 62182 of the Food and Agricultural Code, relating to milk.

[Approved by Governor September 21, 1985 Filed with Secretary of State September 23, 1985]

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

SECTION 1. Section 61405 of the Food and Agricultural Code is amended to read:

61405. (a) Every manufacturing milk handler, before purchasing any manufacturing milk from a producer, shall execute and deliver to the director a surety bond, executed by the applicant as principal and by a surety company qualified and authorized to do business in this state as surety. The amount of the bond shall be based upon the average daily quantity of manufacturing milk purchased by the handler during any calendar month during a license year. The minimum amount of the bond shall be as follows:

(1) Five thousand dollars ($5,000) for any handler that purchases an average daily quantity of less than 1,000 gallons.

(2) Ten thousand dollars ($10,000) for any handler that purchases an average daily quantity of at least 1,000 gallons but less than 4,000 gallons.

(3) Fifteen thousand dollars ($15,000) for any handler that purchases an average daily quantity of at least 4,000 gallons but less than 8,000 gallons.

(4) Twenty thousand dollars ($20,000) for any handler that purchases an average daily quantity of 8,000 gallons or more.

(b) Any milk purchase agreement between a handler and a producer may provide for surety bonds, guarantees, or other forms of security in addition to the bonding requirements in this article.

SEC. 2. Section 62182 of the Food and Agricultural Code is amended to read:

62182. (a) Every handler, before purchasing any market milk from a producer, shall execute and deliver to the director a surety bond, executed by the applicant as principal and by a surety company qualified and authorized to do business in this state as surety. The minimum amount of the bond shall be based upon the average daily quantity of market milk purchased by the handler during any calendar month during a license year.

The minimum amount of the bond shall be as follows:

(1) Five thousand dollars ($5,000) for any handler that purchases an average daily quantity of less than 1,000 gallons.

(2) Ten thousand dollars ($10,000) for any handler that purchases an average daily quantity of at least 1,000 gallons but less than 4,000 gallons.

(3) Fifteen thousand dollars ($15,000) for any handler that purchases an average daily quantity of at least 4,000 gallons but less than 8,000 gallons.

(4) Twenty thousand dollars ($20,000) for any handler that purchases an average daily quantity of 8,000 gallons or more.

(b) Any milk purchase agreement between a handler and a producer may provide for additional surety bonds, guarantees, or other forms of security in addition to the bonding requirements in this article.

SEC. 3. The Department of Food and Agriculture, in cooperation with representatives from the dairy industry, shall undertake a study and shall submit not later than July 1, 1986, to the Governor, the Senate Committee on Agriculture and Water, and the Assembly Committee on Agriculture a report on the effectiveness of this act with findings and recommendations for changes in existing law to strengthen producer security protection, with special attention to providing financial responsibility alternatives consistent with modern methods practiced by the dairy industry.

CHAPTER 890

An act to add Sections 31781.11 and 31791 to the Government Code, relating to the County Employees Retirement Law of 1937.

[Approved by Governor September 21, 1985 Filed with Secretary of State September 23, 1985.]

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

SECTION 1. Section 31781.11 is added to the Government Code, immediately following Section 31781.1, to read:

31781.11. The board of supervisors of a county of the first class as described by Sections 28020 and 28022 may, by resolution adopted by a majority vote, increase the amounts of the death benefits payable pursuant to Sections 31760.1, 31765.1, 31781.1, and 31785, with respect to a death occurring on or after the date this section becomes operative in a county, up to the amount of the monthly allowance to which the deceased member was or would have been entitled as of the date of his or her death.

SEC. 2. Section 31791 is added to the Government Code, to read:

31791. Notwithstanding Section 31760.1, 31765.1, 31781.1, 31781.2, 31785, 31786, 31787, or 31787.5, the board of supervisors of a county of the first class as described by Sections 28020 and 28022 may, by resolution adopted by a majority vote and with respect to the death benefit payable pursuant to any, all, or any combination of, those sections, take any or all of the following actions:

(a) Increase the maximum age for eligible children who remain unmarried and are regularly enrolled as full-time students in an accredited school as determined by the board, to the age of 23 years.

(b) Provide for payment of the death benefit to any surviving children for such period as those children remain legally incompetent to act as adults regardless of age.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act.

CHAPTER 891

An act to amend and repeal Sections 4585, 4586, 4587, 4590, and 4591 of the Public Resources Code, relating to forest practices.

[Approved by Governor September 21, 1985. Filed with Secretary of State September 23, 1985.]

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

SECTION 1. Section 4585 of the Public Resources Code is amended to read:

4585. (a) Within one month after completion of the work described in the timber harvesting plan, excluding work for stocking, a report shall be filed by the timber owner or the owner's agent with the department that all work except stocking has been completed.

(b) If all of the work described in the plan has not been completed, a report may be filed annually with respect to a portion of the area covered by the plan which has been completed. The portion completed shall be adequately identified on a map submitted with the report.

(c) 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 enacted before January 1, 1990, deletes or extends that date. If that date is not deleted or extended, then, on and after January 1, 1990, pursuant to Section 9611 of the Government Code, Section 4585 of the Public Resources Code, as amended by Section 91 of Chapter 1300 of the Statutes of 1976, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 2. Section 4586 of the Public Resources Code is amended to read:

4586. Within six months of the receipt of the work completion report specified in Section 4585, the director shall determine, by inspection, whether the work described in the report, excluding stocking, has been properly completed in conformity with the rules and regulations of the board and standards of this chapter. If it has been so completed, the director shall issue a report of satisfactory completion of all items except stocking. If not, the director shall take such corrective action as he or she deems appropriate in accordance with Article 8 (commencing with Section 4601).

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 enacted before January 1, 1990, deletes or extends that date. If that date is not deleted or extended, then, on and after January 1, 1990, pursuant to Section 9611 of the Government Code, Section 4586 of the Public Resources Code, as amended by Section 265 of Chapter 676 of the Statutes of 1980, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 3. Section 4587 of the Public Resources Code is amended to read:

4587. (a) Within five years after completion of timber operations on an area identified in a report submitted pursuant to Section 4585, a report of stocking with respect to that area shall be filed by the timber owner or the owner's agent with the department. The board, by regulation, shall establish one or more statistically valid standardized sampling procedures designed to measure the number of trees and their dispersion.

(b) Notwithstanding subdivision (a), the board shall promulgate regulations which specify the conditions and manner in which the necessity of employing sampling procedures may be waived. The regulations shall provide that, in addition to any other possible conditions which may be required by the board, the standard sampling procedures may be waived only if the director or the director's representative and the timber owner or a registered professional forester acting as the owner's agent agree that the area is adequately stocked to meet the standards of this chapter and other applicable rules or regulations of the board. The regulations shall require that, if the director or the director's representative does not agree that the area is so stocked, a standardized sample shall be required.

(c) 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 enacted before January 1, 1990, deletes or extends that date. If that date is not deleted or extended, then, on and after January 1, 1990, pursuant to Section 9611 of the Government Code, Section 4587 of the Public Resources Code, as amended by Section 3 of Chapter 1181 of the Statutes of 1978, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 4. Section 4590 of the Public Resources Code is amended to read:

4590. (a) (1) A timber harvesting plan is effective for a period of not more than three years, unless extended pursuant to paragraph (2).

(2) A timber harvesting plan on which work has been commenced but not completed may be extended by amendment for a one-year period in order to complete the work, up to a maximum of two one-year extensions, if (1) good cause is shown and (2) all timber operations are in conformance with the plan, this chapter, and all applicable rules and regulations, upon the filing of the notice of extension as required by this paragraph. The extension shall apply to any area covered by the plan for which a report has not been submitted under Section 4585. The notice of extension shall be provided to the department not sooner than 30 days, but at least 10 days, prior to the expiration date of the plan. The notice shall include the circumstances which prevented a timely completion of the work under the plan and, consistent with Section 4583, an agreement to comply with this chapter and the rules and regulations of the board as they exist on the date the extension notice is filed.

(b) Stocking work may continue for more than the effective period of the plan under subdivision (a), but shall be completed within five years after the conclusion of other work.

(c) 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 enacted before January 1, 1990, deletes or extends that date. If that date is not deleted or extended, then, on and after January 1, 1990, pursuant to Section 9611 of the Government Code, Section 4590 of

the Public Resources Code, as added by Section 4 of Chapter 880 of the Statutes of 1973, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 5. Section 4591 of the Public Resources Code is amended to read:

4591. Amendments to the original timber harvesting plan may be submitted detailing proposed changes from the original plan. Substantial deviations from the original plan shall not be undertaken until the amendment has been filed with, and acted upon, by the department in accordance with Sections 4582.7 and 4583. An amendment may not extend the effective period of the plan, except as provided in Section 4590.

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 enacted before January 1, 1990, deletes or extends that date. If that date is not deleted or extended, then, on and after January 1, 1990, pursuant to Section 9611 of the Government Code, Section 4591 of the Public Resources Code, as amended by Section 95 of Chapter 1300 of the Statutes of 1976, shall have the same force and effect as if this temporary provision had not been enacted.

CHAPTER 892

An act to add Section 2360 to the Streets and Highways Code, relating to streets and highways.

[Approved by Governor September 21, 1985. Filed with Secretary of State September 23, 1985.]

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

SECTION 1. Section 2360 is added to the Streets and Highways Code, to read:

2360. Funds apportioned by the United States Secretary of Transportation to public entities in California for federal-aid urban system projects shall be obligated by the recipient public entity within three years of the year of the apportionment of the funds to the state by the secretary.

Any federal-aid urban funds that are not obligated within the three-year period shall be reapportioned by the department to other projects under terms and conditions established by the department and approved by the FAU Systems Advisory Committee. The public entity receiving a reapportionment shall compensate the recipient of the original apportionment in an amount equal to at least 60 percent of the amount of the reapportionment.

The director shall notify each public entity six months prior to the end of the three-year period in which the public entity is required to obligate the funds that the department intends to reapportion

under this section. A public entity receiving notification may request a hearing before the FAU Systems Advisory Committee for an extension of the three-year requirement. The FAU Systems Advisory Committee may grant the public entity an extension of time in which to obligate the funds if it makes a finding that the public entity has shown that the extension is justified.

The department, in cooperation with the FAU Systems Advisory Committee, shall certify that a recipient agency will be able to expend funds based on project readiness and its ability to meet funding requirements. The department shall provide to the commission all information relating to the reallocation of federal-aid urban funds on the state highway system. The commission may amend the state transportation improvement plan to reflect changes deemed appropriate by the commission resulting from reallocations.

This section applies to federal-aid urban funds apportioned prior to January 1, 1986, but the three-year period for any funds apportioned prior to January 1, 1986, shall begin on that date.

CHAPTER 893

An act to amend Section 5091 of the Education Code, relating to schools.

[Approved by Governor September 21, 1985. Filed with Secretary of State September 23, 1985]

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

SECTION 1. Section 5091 of the Education Code is amended to read:

5091. (a) Whenever a vacancy occurs, or whenever a resignation has been filed with the county superintendent of schools containing a deferred effective date, the school district or community college district governing board shall, within 60 days of the vacancy or the filing of the deferred resignation, either order an election or make a provisional appointment to fill the vacancy. A governing board member may not defer the effective date of his or her resignation for more than 60 days after he or she files the resignation with the county superintendent of schools.

In the event that a governing board fails to make a provisional appointment or order an election within the prescribed 60-day period as required by this section, the county superintendent of schools shall call an election to fill the vacancy.

(b) When an election is ordered, it shall be held on the next regular election date provided pursuant to Chapter 1 (commencing with Section 2500) of Division 4 of the Elections Code not less than 130 days after the occurrence of the vacancy or after the written resignation is filed with the county superintendent of schools.

(c) If a provisional appointment is made within the 60-day period, the registered voters of the district may, within 30 days from the date of the appointment, petition for the conduct of a special election to fill the vacancy. A petition shall be deemed to bear a sufficient number of signatures if signed by at least the number of registered voters of the district equal to 1½ percent of the number of registered voters of the district at the time of the last regular election for governing board members.

The petition shall be submitted to the county superintendent of schools having jurisdiction who shall have 30 days to verify the signatures. If the petition is determined to be legally sufficient by the county superintendent of schools, the provisional appointment is terminated, and the county superintendent of schools shall call a special election to be conducted no later than the 120th day after the determination. However, if a regular election date, as defined in Section 2500 of the Elections Code, occurs between the 120th day and the 150th day following the determination, the county superintendent of schools may call the special election to be conducted on the regular election date.

(d) A provisional appointment made pursuant to subdivision (a) confers all powers and duties of a governing board member upon the appointee immediately following his or her appointment.

(e) A person appointed to fill a vacancy shall hold office only until the next regularly scheduled election for district governing board members, whereupon an election shall be held to fill the vacancy for the remainder of the unexpired term. A person elected at an election to fill the vacancy shall hold office for the remainder of the term in which the vacancy occurs or will occur.

(f) Whenever a petition calling for a special election is circulated, the petition shall contain the clerk's estimate of the cost of conducting the special election.

No person shall permit the list of names on petitions prescribed by this section to be used for any purpose other than qualification of the petition for the purpose of holding an election pursuant to this section.

The petition filed with the county superintendent of schools shall be subject to the restrictions in Section 6253.5 of the Government Code.

(g) Elections held pursuant to subdivisions (b) and (c) shall be conducted in as nearly the same manner as practicable as other governing board member elections.

SEC. 1.5. Section 5091 of the Education Code is amended to read:

5091. (a) Whenever a vacancy occurs, or whenever a resignation has been filed with the county superintendent of schools containing a deferred effective date, the school district or community college district governing board shall, within 60 days of the vacancy or the filing of the deferred resignation, either order an election or make a provisional appointment to fill the vacancy. A governing board member may not defer the effective date of his or her resignation for

more than 60 days after he or she files the resignation with the county superintendent of schools.

In the event that a governing board fails to make a provisional appointment or order an election within the prescribed 60-day period as required by this section, the county superintendent of schools shall call an election to fill the vacancy.

(b) When an election is ordered, it shall be held on the next regular election date provided pursuant to Chapter 1 (commencing with Section 2500) of Division 4 of the Elections Code not less than 130 days after the occurrence of the vacancy or after the written resignation is filed with the county superintendent of schools.

(c) If a provisional appointment is made within the 60-day period, the registered voters of the district may, within 30 days from the date of the appointment, petition for the conduct of a special election to fill the vacancy. A petition shall be deemed to bear a sufficient number of signatures if signed by at least the number of registered voters of the district equal to 1½ percent of the number of registered voters of the district at the time of the last regular election for governing board members.

The petition shall be submitted to the county superintendent of schools having jurisdiction who shall have 30 days to verify the signatures. If the petition is determined to be legally sufficient by the county superintendent of schools, the provisional appointment is terminated, and the county superintendent of schools shall call a special election to be conducted no later than the 120th day after the determination. However, if a regular election date, as defined in Section 2500 of the Elections Code, occurs between the 120th day and the 150th day following the determination, the county superintendent of schools may call the special election to be conducted on the regular election date.

(d) A provisional appointment made pursuant to subdivision (a) confers all powers and duties of a governing board member upon the appointee immediately following his or her appointment.

(e) A person appointed to fill a vacancy shall hold office only until the next regularly scheduled election for district governing board members, whereupon an election shall be held to fill the vacancy for the remainder of the unexpired term. A person elected at an election to fill the vacancy shall hold office for the remainder of the term in which the vacancy occurs or will occur.

(f) Whenever a petition calling for a special election is circulated, the petition shall meet all of the following requirements:

(1) The petition shall contain the clerk's estimate of the cost of conducting the special election.

(2) The name and residence address of at least one, but not more than five, of the proponents of the petition shall appear on the petition, each of which proponents shall be a registered voter of the school district or community college district, as applicable.

(3) None of the text or other language of the petition shall appear in less than six-point type.

(4) The petition shall be prepared and circulated in conformity with the requirements of Sections 41 and 44 of the Elections Code.

If any of the requirements of this subdivision are not met as to any petition calling for a special election, the county superintendent of schools shall not verify the signatures, nor shall any further action be taken with respect to the petition.

No person shall permit the list of names on petitions prescribed by this section to be used for any purpose other than qualification of the petition for the purpose of holding an election pursuant to this section.

The petition filed with the county superintendent of schools shall be subject to the restrictions in Section 6253.5 of the Government Code.

(g) Elections held pursuant to subdivisions (b) and (c) shall be conducted in as nearly the same manner as practicable as other governing board member elections.

SEC. 2. Section 1.5 of this bill incorporates amendments to Section 5091 of the Education Code proposed by both this bill and AB 992. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1986, (2) each bill amends Section 5091 of the Education Code, and (3) this bill is enacted after AB 992, in which case Section 1 of this bill shall not become operative.

CHAPTER 894

An act to add Section 29200.5 to the Elections Code, relating to elections.

[Approved by Governor September 21, 1985 Filed with Secretary of State September 23, 1985.]

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

SECTION 1. Section 29200.5 is added to the Elections Code, to read:

29200.5. Every person who knowingly and willfully completes, or causes or procures the completion, in whole or in part, of an affidavit of registration or a voter registration card, with the intent to cause the registration or reregistration as a voter, of a fictitious person or of any person who has not requested registration or reregistration as a voter, is guilty of a crime punishable by imprisonment in the state prison for 16 months or two or three years, or in a county jail for not more than one year.

SEC. 2. No reimbursement is required by this act pursuant to 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 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 895

An act to add Section 1029.8 to the Code of Civil Procedure, and to add Section 253 to the Insurance Code, relating to unlicensed activities.

[Approved by Governor September 21, 1985. Filed with Secretary of State September 23, 1985.]

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

SECTION 1. Section 1029.8 is added to the Code of Civil Procedure, to read:

1029.8. (a) Any unlicensed person who causes injury or damage to another person as a result of providing goods or performing services for which a license is required under Division 2 (commencing with Section 500) or any initiative act referred to therein, Division 3 (commencing with Section 5000), or Chapter 2 (commencing with Section 18600) or Chapter 3 (commencing with Section 19000) of Division 8, of the Business and Professions Code, shall be liable to the injured person for treble the amount of damages assessed in a civil action in any court having proper jurisdiction. The court may, in its discretion, award all costs and attorney's fees to the injured person if that person prevails in the action.

(b) This section shall not be construed to confer an additional cause of action or to affect or limit any other remedy, including, but not limited to, a claim for exemplary damages.

(c) The additional damages provided for in subdivision (a) shall not exceed ten thousand dollars ($10,000).

(d) For the purposes of this section, the term "unlicensed person" shall not apply to any of the following:

(1) Any person, partnership, corporation, or other entity providing goods or services under the good faith belief that they are properly licensed and acting within the proper scope of that licensure.

(2) Any person, partnership, corporation, or other entity whose license has expired for nonpayment of license renewal fees, but who is eligible to renew that license without the necessity of applying and qualifying for an original license.

(3) Any person, partnership, or corporation licensed under Chapter 6 (commencing with Section 2700) or Chapter 6.5 (commencing with Section 2840) of the Business and Professions Code, who provides professional nursing services under an existing license, if the action arises from a claim that the licensee exceeded the scope of practice authorized by his or her license.

(e) This section shall not apply to any action for unfair trade

practices brought against an unlicensed person under Chapter 4 (commencing with Section 17000) of Part 2 of Division 7 of the Business and Professions Code, by a person who holds a license which is required, or closely related to the license which is required, to engage in those activities performed by the unlicensed person.

SEC. 2. Section 253 is added to the Insurance Code, to read:

253. On and after January 1, 1986, no insurer shall issue or amend contracts of insurance in this state to provide coverage for the payment of any damages awarded to a person because of Section 1029.8 of the Code of Civil Procedure.

CHAPTER 896

An act to add Section 5010.7 to the Education Code, relating to community college districts.

[Approved by Governor September 21, 1985. Filed with Secretary of State September 23, 1985.]

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

SECTION 1. Section 5010.7 is added to the Education Code, to read:

5010.7. (a) Notwithstanding any other provision of law, a community college district may, by resolution, require that its trustee general elections be held on the same day as the statewide general election, except that the board of supervisors of any county in which the district will hold an election may deny any request for consolidation if it finds that the ballot style, voting equipment, or computer capacity is such that additional elections or materials cannot be handled. If a district is located in more than one county the district may not consolidate an election if any county in which the district is located denies the request for consolidation.

(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), 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.

CHAPTER 897

An act to amend Section 2502 of the Elections Code, relating to elections.

[Approved by Governor September 21, 1985. Filed with Secretary of State September 23, 1985.]

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

SECTION 1. Section 2502 of the Elections Code is amended to read:

2502. Except as provided in Section 2503, notwithstanding any other provisions of law, all state, county, municipal, district, and school district elections shall be held on the established election date nearest to the date on which they would be held in the absence of this chapter. If the election is held on a statewide election date it shall be consolidated with the statewide election according to the provisions of Part 2.5 (commencing with Section 23300) of Division 14 except that, in counties of the first class, the board of supervisors may deny any request for consolidation, if it finds that the ballot style, voting equipment, or computer capacity is such that additional elections or materials cannot be handled. The procedural requirements prescribed for any such election shall be construed as if the provisions of this section were specifically set forth in the provisions relating to that election.

CHAPTER 898

An act to amend Sections 40522 and 40610 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 21, 1985. Filed with Secretary of State September 23, 1985.]

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

SECTION 1. Section 40522 of the Vehicle Code is amended to read:

40522. Whenever a person is arrested for violations specified in Section 40303.5 and none of the disqualifying conditions set forth in subdivision (b) of Section 40610 exist, and the officer issues a notice to appear, the notice shall specify the offense charged and note in a form approved by the Judicial Council that the charge shall be dismissed on proof of correction. If the arrested person presents, by mail or in person, proof of correction, as prescribed in Section 40616, on or before the date on which the person promised to appear, the court shall dismiss the violation or violations charged pursuant to

Section 40303.5.

The court shall not impose a fine or assess an administrative fee for a violation or processing a proof of correction with respect to a violation for which proof of correction has been timely and properly secured.

SEC. 2. Section 40610 of the Vehicle Code is amended to read:

40610. (a) (1) Except as provided in paragraph (2), if, after an arrest, accident investigation, or other law enforcement action, it appears that a violation has occurred involving a registration, license, or mechanical requirement of this code, and none of the disqualifying conditions set forth in subdivision (b) exist and the investigating officer decides to take enforcement action, the officer shall prepare, in triplicate, and the violator shall sign, a written notice containing the violator's promise to correct the alleged violation and to deliver proof of correction of the violation to the issuing agency.

(2) If any person is arrested for a violation of Section 4454, and none of the disqualifying conditions set forth in subdivision (b) exist, the arresting officer shall prepare, in triplicate, and the violator shall sign, a written notice containing the violator's promise to correct the alleged violation and to deliver proof of correction of the violation to the issuing agency. In lieu of issuing a notice to correct violation pursuant to this section, the officer may issue a notice to appear, as specified in Section 40522.

(b) Pursuant to subdivision (a), a notice to correct violation shall be issued as provided in this section or a notice to appear shall be issued as provided in Section 40522, unless the officer finds any of the following:

(1) Evidence of fraud or persistent neglect.

(2) The violation presents an immediate safety hazard.

(3) The violator does not agree to, or cannot, promptly correct the violation.

(c) If any of the conditions set forth in subdivision (b) exist, the procedures specified in this section or Section 40522 are inapplicable, and the officer may take other appropriate enforcement action.

(d) Except as otherwise provided in subdivision (a), the notice to correct violation shall be on a form approved by the Judicial Council and, in addition to the owner's or operator's address and identifying information, shall contain an estimate of the reasonable time required for correction and proof of correction of the particular defect, not to exceed 30 days.

(e) The court shall not impose a fine or assess an administrative fee for a violation or processing a proof of correction with respect to a violation for which proof of correction has been timely and properly secured.

CHAPTER 899

An act to amend Section 23509.1 of the Elections Code, and to amend Section 84211 of, to add Section 84216.5 to, and to repeal and add Section 84216 of, the Government Code, relating to elections.

[Approved by Governor September 21, 1985. Filed with Secretary of State September 23, 1985]

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

SECTION 1. Section 23509.1 of the Elections Code is amended to read:

23509.1. (a) Notwithstanding any other provision of law to the contrary, a governing board in the County of San Diego may adopt a resolution requiring its general district election to be held on the same day as the statewide direct primary election or the day of the statewide General Election.

(b) If an election is held pursuant to subdivision (a), and the election is consolidated with another election, the provisions contained in Part 2.5 (commencing with Section 23300) shall govern the consolidation and, if the county clerk is requested to conduct the election, Section 22003 shall apply to that election.

(c) If, pursuant to subdivision (a), a general district election is held on the same day as a statewide election, those officers whose four-year terms of office would have, prior to the adoption of the resolution, expired on the last Friday in November or December following the general district election in an odd-numbered year shall, instead, either continue in their offices until no later than the fourth Tuesday after the day of the general district election or, at the option of the governing board, cease to hold office prior to the expiration of their four-year term and upon the qualification of their successors at the time prescribed by the governing board.

SEC. 2. Section 84211 of the Government Code is amended to read:

84211. Each campaign statement required by this article shall contain the following information:

(a) The total amount of contributions received during the period covered by the campaign statement and the total cumulative amount of contributions received.

(b) The total amount of expenditures made during the period covered by the campaign statement and the total cumulative amount of expenditures made.

(c) The total amount of contributions received during the period covered by the campaign statement from persons who have given a cumulative amount of one hundred dollars ($100) or more.

(d) The total amount of contributions received during the period covered by the campaign statement from persons who have given a cumulative amount of less than one hundred dollars ($100).

(e) The balance of cash and cash equivalents on hand at the beginning and the end of the period covered by the campaign statement.

(f) If the cumulative amount of contributions (including loans) received from a person is one hundred dollars ($100) or more and a contribution or loan has been received from that person during the period covered by the campaign statement:

(1) His or her full name;

(2) His or her street address;

(3) His or her occupation;

(4) The name of his or her employer or if self-employed, name of business;

(5) The date and amount received for each contribution received during the period covered by the campaign statement and if the contribution is a loan, the interest rate for the loan; and

(6) The cumulative amount of contributions.

(g) For each person, other than the filer, who is directly, indirectly or contingently liable for repayment of a loan received during the period covered by the campaign statement:

(1) His or her full name;

(2) His or her street address;

(3) His or her occupation;

(4) The name of his or her employer or if self-employed, name of business; and

(5) The amount of his or her maximum liability.

(h) The total amount of expenditures made during the period covered by the campaign statement to persons who have received one hundred dollars ($100) or more.

(i) The total amount of expenditures made during the period covered by the campaign statement to persons who have received less than one hundred dollars ($100).

(j) For each person to whom an expenditure of one hundred dollars ($100) or more has been made during the period covered by the campaign statement:

(1) His or her full name;

(2) His or her street address;

(3) The amount of each expenditure;

(4) A brief description of the consideration for which each expenditure was made;

(5) In the case of an expenditure which is a contribution, the date of the contribution, the cumulative amount of contributions made to a candidate, elected officer or committee, the full name of the candidate and the office and district for which he or she seeks nomination or election. In the case of a contribution in support of or opposition to a measure, the number or letter of the measure and the jurisdiction in which the measure or candidate is voted upon; and

(6) The information required in paragraphs (1) through (4) above, for each person, if different from the payee, who has provided consideration for an expenditure of one hundred dollars ($100) or

more during the period covered by the campaign statement.

For purposes of subdivisions (h), (i), and (j) only, the terms "expenditure" or "expenditures" means any individual payment or accrued expense, unless it is clear from surrounding circumstances that a series of payments or accrued expenses are for a single service or product.

(k) In the case of a controlled committee, an official committee of a political party, or an organization formed or existing primarily for political purposes, the amount and source of any miscellaneous receipt.

(*l*) If a committee is listed pursuant to subdivision (f), (g), (j), (k), or (p), the number assigned to the committee by the Secretary of State shall be listed or if no number has been assigned, the full name and street address of the treasurer of the committee.

(m) In a campaign statement filed by a committee supporting or opposing more than one candidate or measure, the amount of expenditures of one hundred dollars ($100) or more for or against each candidate or measure during the period covered by the campaign statement and the cumulative amount of expenditures of one hundred dollars ($100) or more for or against each such candidate or measure.

(n) In a campaign statement filed by a candidate who is a candidate in both an election held on the first Tuesday after the first Monday in June and an election held on the first Tuesday after the first Monday in November, his or her controlled committee, or a committee primarily formed to support or oppose such a candidate, the total amount of contributions received and the total amount of expenditures made for the period January 1 through June 30 and the total amount of contributions received and expenditures made for the period July 1 through December 31.

(o) The full name, residential and business addresses and telephone number of the filer, or in the case of a campaign statement filed by a committee, the name, street address and telephone number of the committee and of the committee treasurer.

(p) If the campaign statement is filed by a candidate, the name, street address and treasurer of any committee of which he or she has knowledge which has received contributions or made expenditures on behalf of his or her candidacy and whether such committee is controlled by the candidate.

(q) A contribution need not be reported nor shall it be deemed accepted if it is not cashed, negotiated or deposited and is returned to the contributor before the closing date of the campaign statement on which the contribution would otherwise be reported.

(r) If the campaign statement is filed in connection with the qualification of a measure, it shall contain the information required by paragraphs (1) through (4) of subdivision (j) for each person who has directly, indirectly or through an intermediary received payments cumulatively totaling one hundred dollars ($100) or more for circulation of petitions to qualify a measure for the ballot.

(s) The information required by Sections 84216 and 84216.5.

SEC. 3. Section 84216 of the Government Code is repealed.

SEC. 4. Section 84216 is added to the Government Code, to read:

84216. (a) Notwithstanding Section 82015, a loan received by a candidate or committee is a contribution unless the loan is received from a commercial lending institution in the ordinary course of business, or it is clear from the surrounding circumstances that it is not made for political purposes.

(b) A loan, whether or not there is a written contract for the loan, shall be reported as provided in this section when any of the following apply:

(1) The loan is a contribution.

(2) The loan is received by a committee.

(3) The loan is received by a candidate and is used for political purposes.

(c) For the reporting period in which the loan is received, the due date of the loan, if any, shall be reported in addition to the information required by Section 84211.

(d) For any reporting period in which any part of a loan is repaid or forgiven, the following shall be reported in addition to the information required by Section 84211:

(1) The original date and source of the loan.

(2) Any change in the interest rate on the loan.

(3) The balance owed on the original principal at the end of the reporting period.

(4) The amount of any forgiveness or repayment of any part of the loan by the lender, by any cosignor or guarantor, or by any other person during the reporting period, and the name, address, occupation, and employer of any such person.

(e) For any calendar year in which any part of the loan is outstanding, the following shall be reported on no more than one campaign statement, as provided by the commission:

(1) The original date, amount, and source of the loan.

(2) The balance owed on the principal and interest on the loan at the end of the reporting period.

SEC. 5. Section 84216.5 is added to the Government Code, to read:

84216.5. (a) A loan of campaign funds, whether or not there is a written contract for the loan, made by a candidate or committee shall be reported as provided in this section.

(b) For the reporting period in which the loan is made, the date, amount, interest rate, the due date, if any, of the loan shall be reported in addition to the information required by Section 84211.

(c) For any reporting period in which any part of the loan is repaid or forgiven, the following shall be reported in addition to the information required by Section 84211:

(1) The original date of the loan, and the person to whom the loan was made.

(2) The purpose of the payment, any change in the interest rate,

and, if the payment is made by a third party, the name and address of the person making the payment.

(3) The balance owed on the principal at the end of the reporting period.

(4) The amount of any forgiveness of the loan during the reporting period.

(d) For any calendar year in which any part of the loan is outstanding, the following shall be reported on no more than one campaign statement as provided by the commission:

(1) The original date and amount of the loan, and the name of the person to whom the loan was made.

(2) The balance owed on the principal and interest on the loan at the end of the reporting period.

SEC. 6. The Legislature finds and declares that the provisions Sections 2, 3, 4, and 5 of this act further the purposes of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code.

CHAPTER 900

An act to amend Sections 17008 and 17031.5 of, and to add Section 17031.6 to, the Health and Safety Code, relating to labor camps.

[Approved by Governor September 21, 1985. Filed with Secretary of State September 23, 1985.]

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

SECTION 1. The Legislature finds and declares that protections provided to tenants of farm labor camps help ensure that minimum health standards are maintained in those camps, thus protecting the health of the farmlaborers and the community. The Legislature further finds and declares that those protections have been historically found to be necessary and still are necessary today because of the extreme health violations frequently found to exist in farm labor camps.

The Legislature finds and declares that despite added statutory protections, violations of health standards continue to exist in farm labor camps. Protections for tenants who complain about substandard conditions have been weakened by the use of summary unlawful detainer actions by camp owners against complaining tenants. Protections for tenants who live in labor camps owned by nongrowers have been weakened by regulations which severely limit the inspections of nongrower-owned camps, contrary to legislative intent. It is the intent of the Legislature to improve conditions in labor camps by closing these loopholes that have developed in the law's enforcement.

SEC. 2. Section 17008 of the Health and Safety Code is amended

to read:

17008. (a) "Labor camp," as used in this part, means any living quarters, dwelling, boardinghouse, tent, bunkhouse, maintenance-of-way car, mobilehome, or other housing accommodations, including employee housing or labor supply camp, maintained in connection with any work or place where work is being performed, whether or not rent is involved, and the premises upon which they are situated or the area set aside and provided for parking of mobilehomes or camping of five or more employees by the employer.

(b) (1) "Labor camp," as used in this part, also includes any portion of any housing accommodation or property upon which housing accommodations are located, if all of the following factors exist:

(A) The housing accommodations or property are located in any rural area, as defined by Section 50101.

(B) The housing accommodations or property are not maintained in connection with any work or work place.

(C) The housing accommodations or property are provided by someone other than an agricultural employer, as defined in Section 1140.4 of the Labor Code.

(D) The housing accommodations or property are used by five or more agricultural employees of any agricultural employer or employers for any of the following:

(i) Temporary or seasonal residency.

(ii) Permanent residency, if the housing structure is a mobilehome or recreational vehicle.

(iii) Permanent residency, if the housing structure is subject to State Housing Law and is more than 30 years old and at least 51 percent of the units in the structure are occupied by agricultural employees.

(2) "Labor camp," as defined by this subdivision, does not include a hotel, motel, inn, tourist hotel, or permanent housing as defined by subdivision (d) of Section 17010, which has not been maintained, prior to January 1, 1984, or is not maintained on or after that date, as a labor camp, as defined in subdivision (a).

(3) If at any time prior to January 1, 1984, a housing accommodation was a labor camp, as defined in subdivision (a), and on or after January 1, 1984, was a labor camp, as defined in this subdivision, the owner and operator shall comply with all requirements of this part. The owner and operator of any other housing accommodation which is a labor camp pursuant to this subdivision shall be subject to the licensing and inspection provisions of this part and shall comply with all other provisions of this part except that if any portions of the housing accommodation is held out for rent or lease to the general public, the construction and physical maintenance standards of the housing accommodation shall be consistent with the applicable provisions of the State Housing Law, Part 1.5 (commencing with Section 17910), the

Mobilehome-Manufactured Homes Act, Part 2 (commencing with Section 18000); or the Mobilehome Parks Act, Part 2.1 (commencing with Section 18200). The owner or operator of the labor camp shall designate all units or spaces which are a labor camp, as defined in this subdivision, for the purpose of inspection and licensing by the enforcement agency, subject to confirmation by the enforcement agency, based on all relevant evidence.

(c) "Labor camp" does not include employee community housing, as defined by Section 17005.5, which has been granted an exemption pursuant to Section 17031.3; housing, and the premises upon which it is situated, owned by a public entity; or privately owned housing, including ownership by a nonprofit entity, and the premises upon which it is situated, financed with public funds equaling 50 percent or more of the original development or purchase cost.

SEC. 3. Section 17031.5 of the Health and Safety Code is amended to read:

17031.5. (a) No person operating a labor camp consisting only of permanent housing or permanent housing units within a labor camp shall terminate or modify a tenancy by increasing rent, decreasing services, threatening to bring or bringing an action to evict, refusing to renew a tenancy, or in any other way intimidating, threatening, restraining, coercing, blacklisting, or discharging an employee or tenant because of the tenant's exercise of any of the following acts:

(1) Complaining in good faith, orally or in writing, to the landlord or employer about tenantability or about any right provided by this part.

(2) Exercising any legal right with respect to the housing provided by this part.

(3) Complaining in good faith, orally or in writing, to any applicable enforcement agency about tenantability or about any right provided by this part.

(4) Bringing an action to enforce any rights provided for by this part or Chapter 2 (commencing with Section 1940) of Title 5 of Part 4 of Division 3 of the Civil Code.

(5) Bringing an action under Section 1942.5 of the Civil Code.

(b) The tenant shall have a defense of retaliation in any action for possession if the employer or landlord acted in violation of this section. If the employer or landlord acts to modify or terminate a tenancy within six months after the employee or tenant has exercised any of the acts enumerated in subdivision (a), there is a rebuttable presumption affecting the burden of proof that the employer's or landlord's action was retaliatory.

(c) No tenant shall have a defense of retaliation in an action for possession where tenantability is an issue of fact and the untenantable condition was caused by the deliberate or negligent act or omission of the tenant or a member of his or her family, or other persons on the premises with his or her consent.

SEC. 4. Section 17031.6 is added to the Health and Safety Code,

to read:

17031.6. (a) In any action brought pursuant to Chapter 4 (commencing with Section 1159) of Title 3 of Part 3 of the Code of Civil Procedure, in order to evict a tenant from a labor camp accommodation, this section shall apply to that proceeding, notwithstanding any other provision of law including, but not limited to, Section 1170.5 of the Code of Civil Procedure.

(b) If, in an action subject to this section, a tenant alleges both of the following in an answer or other response to an unlawful detainer action, the trial on that action shall be set not earlier than 30 days from the date of filing the answer, and in no event prior to the completion of reasonable and diligently pursued discovery, as determined by the court, unless both parties stipulate to an earlier date:

(1) The tenant is not guilty of unlawful detainer because he or she has engaged in protected activity pursuant to Section 1942.5 of the Civil Code or Section 17031.5 of this code.

(2) The landlord's claim that the eviction is to allow the landlord to remove the subject rental unit from use as employee housing or from the market in order to rehabilitate or demolish it is a pretext to retalitate against the tenant.

(c) If, in an action subject to this section, a tenant alleged that he or she is not guilty of unlawful detainer because he or she has engaged in protected activity pursuant to Section 1942.5 of the Civil Code or Section 17031.5, and the landlord alleges or introduces evidence at trial that the purpose of the eviction is to allow the landlord to remove the subject rental unit from use as employee housing or from the market in order to rehabilitate or demolish it, the court shall immediately continue the trial for not less than 30 days, unless both parties stipulate to a waiver of this requirement.

(d) If, pursuant to this section, a trial is delayed or continued, the court, may, upon a noticed motion for a payment order by the lessor, order the monthly payment of the reasonable monthly rental value to the court as a condition of issuing the delay or continuance order. "Reasonable monthly rental value," as used in this subdivision, means the amount determined by the court after deducting from the contract rent any set offs, including, but not limited to, a reduction in the rent because the dwelling is partially or completely untenantable or rent abatements due to the tenant or lessee. In addition, in determining whether to order the payment of a reasonable monthly rental value to the court, or in ascertaining its amount, the court shall consider the probability of the tenant or lessee prevailing in the trial, the financial ability of the tenant or lessee to maintain this action, and any other factor relevant to the proposed payment order.

SEC. 5. No reimbursement is required by this act pursuant to 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 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 901

An act to amend Section 311 of, to amend and renumber Sections 312, 313, 315, 316, 317, 317.5, 318, and 319 of, to add Sections 314.5, 315.5, 316, 318, and 319 to, and to repeal Sections 318.5 and 319.5 of, the Health and Safety Code, relating to health.

[Approved by Governor September 21, 1985 Filed with Secretary of State September 23, 1985]

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

SECTION 1. Section 311 of the Health and Safety Code is amended to read:

311. The state department may conduct a statewide program for providing nutritional food supplements to low-income pregnant women, low-income postpartum and lactating women, and low-income infants and children under five years of age, who have been determined to be at nutritional risk by a health professional, based on criteria established by the state department. Any program established pursuant to this section shall do all of the following:

(a) Comply with all the requirements of this article.

(b) Be conducted only if a special project is authorized by inclusion in the Budget Act or notification is provided to the Legislature pursuant to Section 28 of the Budget Act, and federal funds are appropriated therefor.

(c) Be known as the California Special Supplemental Food Program for Women, Infants, and Children.

SEC. 2. Section 312 of the Health and Safety Code is amended and renumbered to read:

311.5. As used in this article, the following definitions shall apply:

(a) "Health professional" means a physician and surgeon, registered nurse, nutritionist, dietitian, or state or local medically trained health official, who is competent to professionally evaluate nutritional need and to authorize supplemental foods, as determined by the state department.

(b) "Low income" means the income determined by the local agencies participating in the program authorized by this article, which is based on criteria established by the state department in accordance with the intent and purposes of this article.

(c) "Recipient" means low-income pregnant women, low-income postpartum and lactating women, and low-income infants and children under five years of age, who are determined to be at nutritional risk by a health professional, based on criteria established by the state department.

(d) "Nutrition coupon" means a check which is limited as to value, food type, and food quantity and which has a limited period of validity.

SEC. 3. Section 313 of the Health and Safety Code is amended and renumbered to read:

312. The department, under any program established pursuant to this article, shall do all of the following:

(a) Establish guidelines to determine resource allocation giving consideration to an area's nutritional need.

(b) Designate the counties within which a program will be conducted, with the approval of those counties.

(c) Establish the minimum nutritional requirements for recipients.

(d) Designate specific supplemental foods to meet the minimum nutritional requirements for recipients.

(e) Develop and maintain a system for the delivery of supplemental foods to recipients through the distribution of supplemental foods designated in subdivision (d) and nutrition coupons when other methods of delivery are impractical.

(f) (1) Establish guidelines and criteria to be used by participating local agencies, when determining recipient eligibility, which require, in addition to a recipient being a low-income pregnant woman, or a low-income postpartum and lactating woman, or a low-income infant or child under five years of age, that the recipient be at nutritional risk.

(2) A health professional on the staff of the local agency shall determine if a person is at nutritional risk through a medical or nutritional assessment. This determination may be based on referral data submitted by a health professional not on the staff of the local agency. The person's height or length and weight shall be measured, and hematological test for anemia, such as a hemoglobin or hematocrit test shall be performed. However, the tests shall not be required for infants under six months of age. In addition, the blood test shall not be required for children who were determined to be within the normal range at their last program certification. However, the blood test shall be performed on the children at least once a year. A breastfeeding woman may be certified if the child she is breastfeeding is determined to be at nutritional risk and the woman meets the income eligibility criteria.

(g) Operate the program as an adjunct to existing health services.

(h) Seek federal funds to carry out the provisions of this article.

SEC. 4. Section 315 of the Health and Safety Code is amended and renumbered to read:

312.5. Nutrition coupons in an amount sufficient to meet the nutritional needs of a recipient for one month shall be granted to a recipient by facilities and persons referred to in subdivision (f) of Section 312 upon the written finding of nutritional need by the recipient's physician or other health professional.

SEC. 5. Section 316 of the Health and Safety Code is amended

and renumbered to read:

313. The state department may, under any program established pursuant to this article, investigate the feasibility of contracting with one or more banks in the area served by the program for the redemption of nutrition coupons.

SEC. 6. Section 317 of the Health and Safety Code is amended and renumbered to read:

313.5. The state department, under any program established pursuant to this article, may collect data to determine the need for and the continuation of a supplemental nutritional program for recipients under this article.

SEC. 7. Section 317.5 of the Health and Safety Code is amended and renumbered to read:

314. The state department, under any program established pursuant to this article, shall authorize retail food vendors, by written agreement, to accept nutrition coupons. The state department shall authorize an appropriate number and distribution of food vendors in order to assure adequate participant convenience and access and to assure that state or local officials can effectively manage review of authorized food vendors in their jurisdictions. The state department shall establish criteria to limit the number of retail food vendors with which the state department enters into agreements. The criteria, at a minimum, shall include:

(a) The prices the vendor charges for foods in relation to other stores in the area.

(b) The ability of the state department to ensure that authorized supplemental foods will be provided through in-store compliance purchases.

(c) The adequacy of the shelf stock of the authorized supplemental foods.

(d) Past performance of the vendor in compliance with this article and with the provisions of the Food Stamp Program.

SEC. 8. Section 314.5 is added to the Health and Safety Code, to read:

314.5. The state department, under any program established pursuant to this article, shall ensure that, at a minimum, the authorized vendor shall do all of the following:

(a) Redeem nutrition coupons only from persons bearing appropriate identification provided by the state department.

(b) Redeem nutrition coupons for only those foods specified thereon.

(c) Redeem nutrition coupons at an amount which is the same as, or lesser than, that charged other customers for identical foods.

(d) Redeem and deposit nutrition coupons during specified valid periods.

(e) Deposit the nutrition coupons directly in the vendor's bank account and not transfer them for cash payment, credit, or any other benefit to any party other than the vendor's bank or the state.

(f) Maintain for a period of at least three years records, which shall

include, but not be limited to, all of the following:

(1) Inventory records showing all purchases, both wholesale and retail, in the form of invoices which identify the quantity and prices of specified authorized supplemental foods.

(2) Sales and use tax returns.

(3) Books of account.

(4) Other pertinent records which the state department determines are necessary to substantiate the volume and prices charged to the state department through the nutrition coupons redeemed by the vendor.

SEC. 9. Section 318 of the Health and Safety Code is amended and renumbered to read:

315. The state department shall inform the retail food vendors of, and include in the written agreement with, the vendors, guidelines consistent with Section 314.5 and shall print on each coupon the following:

(a) Specific supplemental foods and the quantities thereof for which the coupon may be redeemed.

(b) The valid period of the nutrition coupon.

(c) The maximum value for which the nutrition coupon may be redeemed.

SEC. 10. Section 318.5 of the Health and Safety Code is repealed.

SEC. 11. Section 315.5 is added to the Health and Safety Code, to read:

315.5. A retail food vendor or any other person who knowingly redeems coupons in excess of the price charged other customers for identical foods, or who provides anything of value other than the specified foods, or who fails to provide inventory records to substantiate purchases for resale of authorized supplemental foods is subject to all sanctions set forth in federal regulation for the Special Supplemental Food Program for Women, Infants, and Children, which is provided for in Section 246 and following of Title 7 of the Code of Federal Regulations. The state department may disqualify a food vendor who is currently disqualified from the Food Stamp Program.

SEC. 12. Section 316 is added to the Health and Safety Code, to read:

316. Any person or persons who have embezzled, willfully misapplied, stolen, or fraudulently obtained funds or benefits pursuant to this article shall be subject to the penalties set forth in federal regulations for the Special Supplemental Food Program for Women, Infants, and Children, which is provided for in Section 246 and following of Title 7 of the Code of Federal Regulations.

SEC. 13. Section 319 of the Health and Safety Code is amended and renumbered to read:

317. Any officer, employee, or agent of the state department may enter the place of business of any vendor transacting nutrition coupons to verify food prices, to witness or investigate procedures, to conduct financial audits, or to otherwise determine compliance of

the vendor with the provisions of this article and the provisions of the vendor agreement.

SEC. 14. Section 318 is added to the Health and Safety Code, to read:

318. The state department shall arrange for the conduct of periodic audits of participating local agencies.

SEC. 15. Section 319 is added to the Health and Safety Code, to read:

319. The department shall provide a hearing procedure whereby any food vendor or local agency may appeal any adverse action taken by the state department affecting the vendor's or local agency's participation in the California Supplemental Food Program for Women, Infants, and Children. The hearing procedure shall be in accordance with the requirements of the federal regulations for the Special Supplemental Food Program for Women, Infants, and Children, which is provided for in Section 246 and following of Title 7 of the Code of Federal Regulations.

SEC. 16. Section 319.5 of the Health and Safety Code is repealed.

SEC. 17. No reimbursement shall be made from the State Mandates Claims Fund pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code for costs mandated by the state pursuant to this act. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Part 7 (commencing with Section 17500) and any other provision of law.

SEC. 18. This bill would provide that, notwithstanding Section 2231.5 of the Revenue and Taxation Code, this bill does not contain a repealer, as required by that section; therefore, the provisions of the bill would remain in effect unless and until they are amended or repealed by a later enacted bill.

CHAPTER 902

An act to add Section 23182 to the Vehicle Code, relating to driving offenses.

[Approved by Governor September 21, 1985 Filed with Secretary of State September 23, 1985.]

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

SECTION 1. Section 23182 is added to the Vehicle Code, to read:

23182. Any person who proximately causes bodily injury to more than one victim in any one instance of driving in violation of Section 23153, shall, upon a felony conviction, receive an enhancement of one year in the state prison for each additional injured victim. The enhanced sentence provided for in this section shall not be imposed unless the fact of the bodily injury to each additional victim is

charged in the accusatory pleading and admitted or found to be true by the trier of fact. The maximum number of one year enhancements which may be imposed pursuant to this section is three.

Notwithstanding any other provision of law, the court may strike the enhancements provided in this section if it determines that there are circumstances in mitigation of the additional punishment and states on the record its reasons for striking the additional punishment.

CHAPTER 903

An act to amend, repeal and add Section 67300 of the Education Code, relating to blind persons, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 21, 1985 Filed with Secretary of State September 23, 1985]

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

SECTION 1. Section 67300 of the Education Code is amended to read:

67300. Services for disabled students provided by the California community colleges and the California State University and Colleges shall, and services provided for the University of California may, at a minimum, conform to the level and quality of those services provided by the State Department of Rehabilitation to its clients prior to July 1, 1981. However, nothing in this chapter shall be construed to require the California community colleges, the California State University and Colleges, or the University of California to provide the services for disabled students in the same manner as those services were provided by the State Department of Rehabilitation.

The Board of Governors of the California Community Colleges and the Trustees of the California State University and Colleges shall, for their respective systems, and the Regents of the University of California may, by January 15, 1982, promulgate regulations to implement the provisions of this chapter.

Notwithstanding any other provision of this section or Section 67301, blind students who are attending California community colleges under the sponsorship of the Department of Rehabilitation shall have all reader services provided directly by the Department of Rehabilitation. Reader services provided by the Department of Rehabilitation pursuant to this section shall be furnished in accordance with federal and state law.

This section shall remain in effect only until July 1, 1988, and as of that date is repealed, unless a later enacted statute, which is enacted prior to that date, deletes or extends that date.

SEC. 2. Section 67300 is added to the Education Code, to read:

67300. Services for disabled students provided by the California community colleges and the California State University and Colleges shall, and services provided for the University of California may, at a minimum, conform to the level and quality of those services provided by the State Department of Rehabilitation to its clients prior to July 1, 1981. However, nothing in this chapter shall be construed to require the California community colleges, the California State University and Colleges, or the University of California to provide the services for disabled students in the same manner as those services were provided by the State Department of Rehabilitation.

The Board of Governors of the California Community Colleges and the Trustees of the California State University and Colleges shall, for their respective systems, and the Regents of the University of California may, by January 15, 1982, promulgate regulations to implement the provisions of this chapter.

This section shall become effective on July 1, 1988, unless a later enacted statute, which is enacted prior to that date, deletes or extends that date.

SEC. 3. There is hereby reappropriated from funds appropriated for the 1985–86 fiscal year to the community colleges for local assistance to disabled students, the sum of eighty-two thousand dollars ($82,000) to the Department of Rehabilitation in order to implement Section 1 of this act.

SEC. 4. The Department of Rehabilitation shall seek federal financial participation for the provision of readers to blind students, as authorized pursuant to Section 1 of this act.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

The resources and service delivery system of the community colleges has been inadequate to meet the basic educational needs of blind college students attending these institutions. In order to attempt to more adequately meet the basic educational needs of blind students at the earliest possible time, it is necessary that this act go into immediate effect.

CHAPTER 904

An act to amend Section 4000.1 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 21, 1985 Filed with Secretary of State September 23, 1985]

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

SECTION 1. Section 4000.1 of the Vehicle Code is amended to read:

4000.1. (a) Except as otherwise provided in subdivision (b), (c), or (d) of this section, or subdivision (b) of Section 43654 of the Health and Safety Code, the department shall require upon initial registration, and upon transfer of ownership and registration, of any motor vehicle subject to Part 5 (commencing with Section 43000) of Division 26 of the Health and Safety Code, and upon registration of a motor vehicle previously registered outside this state which is subject to those provisions of the Health and Safety Code, a valid certificate of compliance or a certificate of noncompliance, as appropriate, issued in accordance with Section 44015 of the Health and Safety Code or with Section 9889.18 or 9889.56 of the Business and Professions Code.

(b) With respect to new vehicles certified pursuant to Chapter 2 (commencing with Section 43100) of Part 5 of Division 26 of the Health and Safety Code, the department shall accept a statement completed pursuant to subdivision (b) of Section 24007 in lieu of the certificate of compliance.

(c) For purposes of determining the validity of a certificate of compliance or noncompliance submitted in compliance with the requirements of this section, the definitions of new and used motor vehicle contained in Chapter 2 (commencing with Section 39010) of Part 1 of Division 26 of the Health and Safety Code control.

(d) Subdivision (a) does not apply to a transfer of ownership and registration under any of the following circumstances:

(1) The transferor is either the parent, grandparent, child, grandchild, or spouse of the transferee.

(2) A vehicle registered to a sole proprietorship is transferred to the proprietor as owner.

(3) The transfer is between companies whose principal business is leasing vehicles, if there is no change in the lessee or operator of the vehicle or between the lessor and the person who has been, for at least one year, the lessee's operator of the vehicle.

(4) The transfer is between the lessor and lessee of the vehicle, if there is no change in the lessee or operator of the vehicle.

(e) The State Air Resources Board, under Part 5 (commencing with Section 43000) of Division 26 of the Health and Safety Code, may exempt designated classifications of motor vehicles from subdivision (a) as it deems necessary, and shall notify the department of that action.

CHAPTER 905

An act to amend Section 44065 and 87274 of the Education Code, relating to school employees.

[Approved by Governor September 21, 1985 Filed with Secretary of State September 23, 1985.]

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

SECTION 1. Section 44065 of the Education Code is amended to read:

44065. (a) Any person employed on or after July 1, 1963, by a school district, including a district having the merit system as outlined in Article 6 (commencing with Section 45240) of Chapter 5 of this part, or by a county superintendent of schools, in a position in which 50 percent or more of his duties performed during the school year, whether performed in a particular school or district or countywide, consist of rendering service in directing, coordinating, supervising or administering any portion or all of the types of functions listed below in this section shall hold a valid teaching or service credential as appropriate, whichever is designated in regulations adopted by the Commission for Teacher Preparation and Licensing, authorizing the particular service.

The types of functions are:

(1) The work of instructors and the instructional program for pupils.

(2) Educational or vocational counseling, guidance and placement services.

(3) School extracurricular activities related to, and an outgrowth of, the instructional and guidance program of the school.

(4) Planning courses of study to be used in the public schools of the state.

(5) The selection, collection, preparation, classification or demonstration of instructional materials of any course of study for use in the development of the instructional program in the schools of the state.

(6) The examination, selection, in-service training, or assignment of teachers, principals or other certificated personnel involved in the instructional program.

(7) Research connected with the evaluation and efficiency of the instructional program.

(8) The school health program.

(9) Activities connected with the enforcement of the laws relating to compulsory education, coordination of child welfare activities involving the school and the home, and the school adjustment of pupils.

(10) The school library services.

(11) The preparation and distribution of instructional materials.

(12) The in-service training of certificated personnel.

(13) The interpretation and evaluation of the school instructional program.

(b) Any person who was employed by a district or by a county superintendent of schools before July 1, 1963, to perform any of the services designated by the Commission for Teacher Preparation and Licensing to require a supervision or administration credential, may continue to perform such services without possessing the credential otherwise required as long as he remains continuously employed to perform the same services in that county superintendent's office or in that district in which he was employed on that date, or is continuously employed to perform the same services in a district which results from a reorganization involving the same district.

(c) Notwithstanding any other provision of law, the governing board of any school district maintaining kindergarten or any of grades 1 to 12, inclusive, or providing adult education classes, may employ for purposes of instructing apprentices duly registered with the Division of Apprenticeship Standards, persons holding any of the following valid credentials:

(1) A community college instructor credential.

(2) A community college limited service credential.

(3) A community college special limited service credential.

SEC. 2. Section 87274 of the Education Code is amended to read:

87274. (a) Except as provided by Sections 72240, 87212, or other provisions of law, an individual employed by a community college district in grades 13 and 14 as an instructor, supervisor, administrator, librarian, counselor, or student personnel worker shall be required to possess a credential or certification document specified in this article. The board of governors may prescribe, by regulation, the standards as to equivalency and standards for professional, vocational training, or experience, or any combination thereof, wherever referred to in this article and such additional minimum standards as it deems appropriate for the administration and enforcement of this article.

(b) Notwithstanding any other provision of law, the governing board of a community college district may employ for purposes of instructing apprentices in noncredit classes duly registered with the Division of Apprenticeship Standards, persons holding any of the following valid credentials:

(1) A full-time designated subject vocational credential.

(2) A part-time designated subject vocational credential.

(3) A full-time standard designated subjects credential, trade and technical.

(4) A part-time standard designated subjects credential, trade and technical.

(5) A special secondary vocational credential, Class A.

(6) A special secondary vocational credential, Class D.

(7) An adult designated subject credential.

CHAPTER 906

An act to add Chapter 2.7 (commencing with Section 53370) to Part 1 of Division 2 of Title 5 of the Government Code, relating to community rehabilitation districts.

[Approved by Governor September 21, 1985 Filed with Secretary of State September 23, 1985]

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

SECTION 1. Chapter 2.7 (commencing with Section 53370) is added to Part 1 of Division 2 of Title 5 of the Government Code, to read:

CHAPTER 2.7. COMMUNITY REHABILITATION DISTRICT LAW

Article 1. General

53370. This chapter shall be known and may be cited as the Community Rehabilitation District Law of 1985.

53370.3. The purpose of this chapter is to provide a method of financing the rehabilitation, renovation, repair, or restoration of existing public facilities. This chapter does not affect or limit any other provisions of law authorizing or providing for the rehabilitation, renovation, repair, or restoration of public facilities or the raising of revenue for those purposes.

53370.7. The Legislature finds and declares all of the following:

(a) California's economy and the well-being of its citizens depend on maintaining a framework of essential public works in fit condition.

(b) Many California public works have been undermaintained or are simply old enough to require rehabilitation or replacement.

(c) Many local governments do not have a viable means of financing needed rehabilitation and replacement of their public facilities and the creation of a suitable financing mechanism is essential.

53371. This chapter shall be liberally construed in order to effectuate its purposes.

53371.3. Unless the context otherwise requires, the definitions contained in this section shall govern the construction of this chapter:

(a) "Clerk" means the clerk of the legislative body of the city or county in which the district or proposed district is located.

(b) "County" means a county or a city and county.

(c) "District" means a rehabilitation district created pursuant to this chapter.

(d) "Legislative body" means the city council in the case of a city or the board of supervisors in the case of a county or a city and county.

(e) "Public capital facilities" means publicly owned facilities with

a useful life of five years or more and include, but are not limited to, the facilities described in Section 53380.7.

(f) "Rehabilitation" means rehabilitation, renovation, repair, restoration, replacement, enlargement, modernization, or relocation.

Article 2. Formation of District

53373. Proceedings for the establishment of a district may be initiated by the legislative body by adopting a resolution of intention to establish a district. The resolution shall do all of the following:

(a) State that a district is proposed to be established pursuant to this chapter and describe the boundaries of the territory proposed for inclusion in the district.

(b) State the name proposed for the district.

(c) State the type or types of public facilities to be rehabilitated by the district. The resolution shall describe the conditions of the public facilities that require rehabilitation, and shall generally describe the scope of work proposed to be done.

(d) State that property tax revenues, other taxes, charges, fees, assessments, or other levies imposed on those residing within the district will be utilized to fund the works and operations of the district.

(e) State the amount and type of any bonds to be issued by the district.

(f) State that the legislative body will serve as ex officio directors of the district.

(g) Fix a time and place for a public hearing on the establishment of the district which shall be not less than 30, or more than 60, days after the adoption of the resolution.

53373.3. A district shall not be created with boundaries that overlap the boundaries of any project area established within the boundaries of a redevelopment agency created pursuant to Part 1 (commencing with Section 33000) of Division 24 of the Health and Safety Code. A project area shall not be created with boundaries that overlap the boundaries of a district.

53373.7. (a) The clerk of the legislative body shall publish a notice of the time and place for the public hearing on the establishment of the district once a week for four successive weeks in a newspaper of general circulation published in the area of the proposed district. Publication shall be complete at least seven days prior to the date of the hearing.

(b) The notice shall contain all of the following information:

(1) The text of the resolution of intention adopted pursuant to Section 53373.

(2) The time and place of the hearing.

(3) A statement that at the hearing the testimony of all interested persons for or against the establishment of the district or any of the proposed works or operations of the district, or any charges, fees,

taxes, or assessments to be levied by the proposed district, will be heard.

53374. If the district proposes to levy an assessment or a special tax or issue bonds in accordance with subdivision (j) of Section 53382 any notices, hearings, and protest opportunities required by any of the principal acts listed in subdivision (j) of Section 53382 may be combined with the notice required to be given pursuant to Section 53373.7 and the hearing held by the legislative body pursuant to Section 53374.3.

53374.3. At the hearing, testimony may be presented by all interested persons in support of, or in opposition to, the establishment of the district, the extent of the district, the proposed rehabilitation program, or the proposed method of financing that rehabilitation program. The city or county officials responsible for the construction or maintenance of the public facilities proposed for rehabilitation shall testify with respect to the need for rehabilitation, the scope of rehabilitation required, and the cost of performing the rehabilitation. Any protests pertaining to the regularity or sufficiency of the proceedings shall be in writing and shall clearly set forth the irregularities and defects to which any objection is made. All written protests shall be filed with the clerk of the legislative body on or before the time fixed for the hearing. The legislative body may correct minor defects in the proceedings at the hearing. Written protests may be withdrawn in writing at any time before the conclusion of the hearing.

53374.7. The hearing may be continued from time to time, but shall be completed within 30 days. At the conclusion of the hearing, the legislative body may do either of the following:

(a) Abandon the proposed establishment of the district.

(b) Determine to establish the district if it makes all of the following findings:

(1) That clear evidence exists, with respect to each public facility proposed for rehabilitation, that the facility has deteriorated to the point of significantly reduced performance, that there is a reasonable likelihood of damage to private or public property or a reasonable likelihood that significant damage will occur to the facility itself if rehabilitation does not occur promptly, or that the facility presents a danger to the health or safety of public employees or to the public.

(2) The proposed rehabilitation program is consistent with the jurisdiction's general plan and any specific plans that apply to the territory included within the district.

(3) That the public facility or the portion of the public facility proposed for rehabilitation, is located within the jurisdiction of the city or county, or that the city or county has entered into a joint powers agreement with other cities or counties, or both, to participate in the rehabilitation of the facility.

53375. If the legislative body determines to proceed with establishing the district, the legislative body shall adopt an ordinance establishing the district.

Article 3. Appointment of Board Members

53378. If the legislative body adopts an ordinance to establish a district pursuant to Section 53375, the legislative body shall serve as ex officio directors of the district.

Article 4. Powers of a District

53380. The territorial jurisdiction of a district created by a county may only include area within the unincorporated territory in the county, and the territorial jurisdiction of a district created by a city or a city and county is the territory within its territorial limits.

53380.3. The powers of each district are vested in the legislative body which establishes the district.

53380.7. A district may rehabilitate public capital facilities. Public capital facilities include, but are not limited to, all of the following:

(a) Streets and roads, including, but not limited to, ancillary equipment such as traffic control signals and signs.

(b) Sewer and water pipes, storm drains, and treatment plants.

(c) Sidewalks, curbs, and gutters.

(d) Bridges, overpasses, and viaducts.

(e) Street lights.

(f) Public buildings.

(g) Flood control works.

(h) Criminal justice facilities, including, but not limited to, jails and juvenile detention facilities.

(i) Libraries.

(j) Park and recreational facilities.

53381. A district may expand the capacity of existing public capital facilities, replace existing public capital facilities with alternative technologies that perform similar functions, or reroute or relocate public capital facilities.

53381.3. A district may not perform routine maintenance, except when ancillary to, and supportive of, a rehabilitation project.

53381.7. Whenever the legislative body determines that it is economically sound and in the public interest for the district to rehabilitate facilities that were not identified in the resolution of intention to create the district, or to rehabilitate public facilities located in territory that is not within the boundaries of the district, or to levy an assessment, or impose a special tax, fee, or charge that was not described in the resolution of intention to create the district, it may grant that authority to the district. The legislative body may grant that authority by adopting a resolution of intention to change the authority of the district, publishing a notice of that intention, holding a hearing, and adopting a resolution to change the authority of the district in the same manner as is required for the adoption of a resolution of intention to establish the district pursuant to Section 53373.

53382. A district may exercise all of the following powers:

(a) Acquire real or personal property of every kind within the district, by grant, purchase, gift, devise, lease, or eminent domain. The power of eminent domain shall be exercised in accordance with the requirements of Title 7 (commencing with Section 1230.010) of Part 3 of the Code of Civil Procedure. In exercising that power, the district shall, in addition to the damage for the taking, injury, or destruction of property, also pay for the cost of removal, reconstruction, or relocation of any structure, railways, mains, pipes, conduits, wires, cables, or poles of any public utility which are required to be relocated.

(b) Act as trustee under any trust incidental to the purposes of the district, and receive, hold, administer, and expend funds and property subject to the trust.

(c) Sell, assign, convey, exchange, lease, mortgage, encumber, transfer upon trust, or otherwise dispose of real or personal property.

(d) Invest and reinvest funds of the district in a prudent manner.

(e) Borrow money, contract debts, and issue bonds, notes, and debentures pursuant to Article 6 (commencing with Section 53387).

(f) Perform any work, construction, or operation under its own superintendence or contract for the performance of that work by others, as authorized by law.

(g) Make contracts for any and all purposes necessary or convenient for the full exercise of its powers.

(h) Exercise the right of perpetual succession.

(i) Adopt and affix a seal.

(j) Levy assessments and issue bonds pursuant to the Improvement Act of 1911, (Division 7 (commencing with Section 5000) of the Streets and Highways Code), the Improvement Bond Act of 1915, (Division 10 (commencing with Section 8500) of the Streets and Highways Code), and the Municipal Improvement Act of 1913, (Division 12 (commencing with Section 10000) of the Streets and Highways Code). The district may also impose a special tax and issue bonds pursuant to the Mello-Roos Community Facilities Act of 1982, (Chapter 2.5 (commencing with Section 53311)), or impose fees or charges. The amount of any fee or charge shall not exceed the amount reasonably necessary to cover the cost of providing the service for which the fee or charge is imposed. The provisions of those principal acts shall govern all proceedings relating to the levy of the assessments, the issuance of bonds, and the retirement of the bonds under any of those principal acts.

(k) Adopt regulations governing the use of district facilities and property.

(*l*) Enter into joint powers agreements in accordance with Chapter 5 (commencing with Section 6500) of Division 7 of Title 1.

53382.3. All contracts for the rehabilitation of any public facility estimated to cost in excess of five thousand dollars ($5,000) shall be let to the lowest responsible bidder after competitive bidding. The legislative body may reject any and all bids and may call for new bids. The legislative body may have the work done by negotiated contract

under any of the following circumstances:

(a) If no proposals are received.

(b) If the estimated cost of the work does not exceed the sum of five thousand dollars ($5,000).

(c) If the work consists only of architectural or engineering design services.

(d) If the work consists of emergency work necessary in order to protect life and property.

53382.7. The county shall, if requested by the legislative body of a district created within the boundaries of a city, collect any assessments, taxes, fees, or charges imposed pursuant to subdivision (j) of Section 53382. If any of those assessments, taxes, fees, or charges are collected by the county, the county may deduct the reasonable costs incurred by the county in making those collections and shall remit the balance to the district.

Article 5. Liability for Damages

53385. All claims and actions against the district or its officers, employees, or agents are subject to Division 3.6 (commencing with Section 810) of Title 1.

53385.3. The district may employ counsel to defend any action or proceeding brought against the district on account of any injury, taking, damage, or destruction, or to defend, as provided in Part 7 (commencing with Section 995) of Division 3.6 of Title 1, any action or proceeding brought against any of its officers, agents, or employees, and the fees and expenses, including the cost of any bonds and undertakings involved are a lawful charge against the district.

Article 6. Senior Obligation Bonds

53387. The legislative body may, by majority vote, initiate proceedings to issue bonds pursuant to this chapter by adopting a resolution stating its intent to issue those bonds.

53387.3. The resolution adopted pursuant to Section 53387 shall contain all of the following information:

(a) A description of the facilities or work to be undertaken with the proceeds of the proposed bond issue.

(b) The estimated cost of the facilities or works, the estimated cost of preparing and issuing the bonds, and the principal amount of the proposed bond issuance.

(c) The maximum interest rate and discount on the proposed bond issuance.

(d) The date of the election on the proposed bond issuance and the manner of holding the election.

(e) A determination of the amount available for the payment of the principal and interest on the bonds pursuant to Section 53387.

(f) A finding that the amount necessary to pay the principal and

interest on the proposed bond issuance will be less than, or equal to, the amount determined pursuant to subdivision (e).

53387.7. The resolution adopted pursuant to Section 53387 shall be published once a day for at least seven successive days in a newspaper published in the city or county at least six days a week, or at least once a week for two successive weeks in a newspaper published in the city or county less than six days a week.

If there are no such newspapers, the resolution shall be posted in three public places within the territory of the district for two succeeding weeks.

53388. The legislative body shall submit the proposal to issue the bonds to the voters who reside within the district. Except as otherwise provided in this chapter, the election shall be conducted in the same manner as other city or county elections.

53388.3. The county shall, if requested by the legislative body of a district created within the boundaries of a city, conduct the election for the district. The district shall pay the county for costs incurred by the county in conducting the election, if any.

53388.7. (a) The bonds may be issued if a majority of the voters voting on the proposition vote in favor of issuing the bonds.

(b) If the voters approve the issuance of the bonds as provided by subdivision (a), the legislative body shall proceed with the issuance of the bonds by adopting a resolution which shall provide for all of the following:

(1) The issuance of the bonds in one or more series.

(2) The principal amount of the bonds, which shall be consistent with the amount specified in subdivision (b) of Section 53388.3.

(3) The date the bonds shall bear.

(4) The date of maturity of the bonds.

(5) The denomination of the bonds.

(6) The form of the bonds.

(7) Any conversion privileges which the bonds shall carry.

(8) The manner of execution of the bonds.

(9) The medium of payment in which the bonds are payable.

(10) The place or manner of payment and any requirements for registration of the bonds.

(11) The terms of call or redemption, with or without premium.

53389. The legislative body shall notify the county auditor if the voters approve the issuance of the bonds pursuant to the election conducted in accordance with Section 53388.

53389.3. When two or more propositions for incurring indebtedness pursuant to this chapter are submitted at the same election, the votes cast for and against each proposition shall be counted separately.

53389.7. If any proposition submitted to the voters pursuant to this chapter is defeated by the voters, the legislative body shall not submit, or cause to be submitted, a similar proposition to the voters for at least six months after the first election.

53390. The legislative body may, by majority vote, provide for

refunding of bonds issued pursuant to this chapter. However, refunding bonds shall not be issued if the total net interest cost to maturity on the refunding bonds plus the principal amount of the refunding bonds exceeds the total net interest cost to maturity on the bonds to be refunded. The legislative body may not extend the time to maturity of the bonds.

53390.3. The legislative body or any person executing the bonds shall not be personally liable on the bonds by reason of their issuance. The bonds and other obligations of a district issued pursuant to this chapter are not a debt of the city, county, or state, or any of its political subdivisions, and those entities are not liable on the bonds and the bonds or obligations are not payable out of any funds or properties other than those of the district. The bonds shall contain a statement of that fact on their face. The bonds do not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation.

53390.7. The bonds may be sold at discount not to exceed 5 percent of par at public sale. At least five days prior to the sale, notice shall be published, pursuant to Section 6061, in a newspaper of general circulation and in a financial newspaper published in the City and County of San Francisco and in the City of Los Angeles. The bonds may be sold at not less than par to the federal government at private sale without any public advertisement.

53391. If any member of the legislative body whose signature appears on bonds ceases to be a member of the legislative body before delivery of the bonds, his or her signature is as effective as if he or she had remained in office. Bonds issued pursuant to this chapter are fully negotiable.

Article 7. Bond Payment

53392. (a) If the voters approve the issuance of bonds pursuant to the election conducted in accordance with Section 53388, the county auditor, subject to the allocation and payment of funds as provided for in subdivision (b) of Section 33670 of the Health and Safety Code, shall allocate, and when collected pay, the amount of property tax revenue determined pursuant to subdivision (c) into a Bond Payment Fund to be established by the district. The county auditor shall continue to make payments to that fund during each fiscal year until the bonds are retired. The county auditor shall make that payment before distributing any property tax revenue to any other entity of government except for distributions pursuant to Section 33670 of the Health and Safety Code. Notwithstanding any other law, no claim on property tax revenue by any other public or private entity for any purpose whatever shall take precedence over the allocation of property tax revenue provided in this section.

(b) The county auditor shall reduce the amount of property tax revenue otherwise allocable to the city or county establishing the district in each fiscal year by the amount deposited in the Bond

Payment Fund pursuant to subdivision (a) for each district during that fiscal year.

(c) The county auditor shall determine, in each fiscal year, the amount sufficient to meet the obligation for the payment of principal and interest during that fiscal year on any bonds issued pursuant to this chapter by each district. However, the amount paid on all bonds issued by each district shall not exceed 25 percent of the revenue allocated to the city or county establishing the district pursuant to Chapter 6 (commencing with Section 95) of Part 0.5 of Division 1 of the Revenue and Taxation Code during the previous fiscal year with respect to all tax rate areas within the district.

(d) The legislative body shall provide for the payment of the principal and interest from the Bond Payment Fund on any bonds issued by the district pursuant to this chapter.

(d) The legislative body of a district established within the boundaries of a city shall reimburse the county for any costs incurred by the county auditor on behalf of the district pursuant to this section.

53392.3. The State of California does hereby pledge to and agree with the holders of any bonds issued pursuant to this chapter that the state will not change the structure, organization, or powers of any district until all obligations on those bonds are fully met or discharged. However, this section does not preclude a change in the structure, organization, or powers of any district if adequate provision is made by law for the protection of the contracts represented by those bonds from impairment, and that right to change the structure, organization, or powers of any district or the allocation of those tax revenues is hereby reserved to the State of California. Districts may include this pledge of the state in those bonds.

53392.7. An action may be brought pursuant to Chapter 9 (commencing with Section 860) of Part 2 of Title 10 of the Code of Civil Procedure to determine the validity of bonds, proceedings, projects, or tax allocations.

SEC. 2. (a) No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act.

CHAPTER 907

An act to amend Sections 48900.5 and 48915 of, and to add Sections 48911.5 and 48915.5 to, the Education Code, relating to special education, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 21, 1985. Filed with Secretary of State September 23, 1985]

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

SECTION 1. Section 48900.5 of the Education Code is amended to read:

48900.5. Suspension shall be imposed only when other means of correction fail to bring about proper conduct. However, a pupil, including an individual with exceptional needs, as defined in Section 56026, may be suspended for any of the reasons enumerated in Section 48900 upon a first offense, if the principal or superintendent of schools determines that the pupil violated subdivision (a), (b), (c), (d), or (e) of Section 48900 or that the pupil's presence causes a danger to persons or property or threatens to disrupt the instructional process.

SEC. 2. Section 48915 of the Education Code is amended to read:

48915. (a) The principal or the superintendent of schools shall recommend a pupil's expulsion for any of the following acts, unless the principal or superintendent finds, and so reports in writing to the governing board, that expulsion is inappropriate, due to the particular circumstance, which shall be set out in the report of the incident:

(1) Causing serious physical injury to another person, except in self-defense.

(2) Possession of any firearm, knife, explosive, or other dangerous object of no reasonable use to the pupil at school or at a school activity off school grounds.

(3) Unlawful sale of any controlled substance, as defined in Section 11007 of the Health and Safety Code, except for the sale of not more than one avoirdupois ounce of marijuana, other than concentrated cannabis.

(4) Robbery or extortion.

(b) Upon recommendation by the principal, superintendent of schools, or by a hearing officer or administrative panel appointed pursuant to subdivision (d) of Section 48919, the governing board may order a pupil expelled upon finding that the pupil violated subdivision (a), (b), (c), (d), or (e) of Section 48900.

(c) Upon recommendation by the principal, superintendent of schools, or by a hearing officer or administrative panel appointed pursuant to subdivision (d) of Section 48919, the governing board may order a pupil expelled upon finding that the pupil violated subdivision (f), (g), (h), (i), (j), (k), or (*l*) of Section 48900 and either of the following:

(1) That other means of correction are not feasible or have repeatedly failed to bring about proper conduct.

(2) That due to the nature of the violation, the presence of the pupil causes a continuing danger to the physical safety of the pupil or others.

SEC. 3. Section 48911.5 is added to the Education Code, to read:

48911.5. The site principal of a contracting nonpublic, nonsectarian school providing services to individuals with exceptional needs under Sections 56365 and 56366, shall have the same duties and responsibilities with respect to the suspension of pupils with previously identified exceptional needs prescribed for the suspension of pupils under Section 48911.

SEC. 4. Section 48915.5 is added to the Education Code, to read:

48915.5. (a) In a matter involving a pupil with previously identified exceptional needs who is currently enrolled in a special education program, the governing board may order the pupil expelled pursuant to subdivisions (b) and (c) of Section 48915 only if all of the following conditions are met:

(1) An individualized education program team meeting is held and conducted pursuant to Article 3 (commencing with Section 56340) of Chapter 2 of Part 30.

(2) The team determines that the misconduct was not caused by, or was not a direct manifestation of, the pupil's identified handicap.

(3) The team determines that the pupil had been appropriately placed at the time the misconduct occurred.

The term "pupil with previously identified exceptional needs," as used in this section, means a pupil who meets the requirements of Section 56026 and who, at the time the alleged misconduct occurred, was enrolled in a special education program, including enrollment in nonpublic schools pursuant to Section 56365 and state special schools.

(b) For purposes of this section, all applicable procedural safeguards prescribed by federal and state law and regulations apply to proceedings to expel pupils with previously identified exceptional needs, except that, notwithstanding any other provision of law, parental consent is not required as a condition for expulsion proceedings or the decision to expel.

(c) Each local educational agency, pursuant to the requirements of Section 56221, shall develop procedures and time lines governing expulsion procedures for individuals with exceptional needs.

(d) The parent of each pupil with previously identified exceptional needs has the right to participate in the individualized education program team meeting conducted pursuant to subdivision (a) preceding the commencement of expulsion proceedings through actual participation, representation, or a conference call. Each parent shall be notified of his or her right to participate in the meeting at least 48 hours prior to the meeting. Unless a parent has requested a postponement, the meeting may be conducted without the parent's participation, if the notice required by this subdivision has been provided. Each parent may request that the meeting be postponed for up to three additional school days. In the event that a postponement has been granted, the local educational agency may extend any suspension of a pupil for the period of postponement.

(e) In determining whether a pupil should be expelled, the individualized education program team shall base its decision on

recent and relevant information regarding the pupil.

The term "recent," as used in this subdivision, means information that has been acquired within three years of the date of the alleged misconduct.

The term "relevant information," as used in this subdivision, means all of the following:

(1) A review of the pupil's school progress and behavior, if available, including, but not limited to, a review of the pupil's individualized education program, teacher progress reports and comments, school health records, and school discipline records.

(2) A review of the ability of the pupil to conform his or her behavior to the prescribed standards, and a determination of the relationship, if any, between the pupil's behavior and his or her handicapping condition.

(f) If the individualized education program team determines that the alleged misconduct was not caused by, or a direct manifestation of, the pupil's handicapping condition, and if it is determined that the pupil was appropriately placed, the pupil shall be subject to the applicable disciplinary actions and procedures prescribed under this article.

(g) The parent of each pupil with previously identified exceptional needs has the right to a due process hearing conducted pursuant to Section 1415 of Title 20 of the United States Code if the parent disagrees with the decision of the individualized education program team made pursuant to subdivision (f), or if the parent disagrees with the decision to rely upon information obtained, or proposed to be obtained, pursuant to subdivision (e).

The State Board of Education shall adopt regulations to ensure that hearings for the expulsion of pupils with previously identified exceptional needs are conducted in a more timely manner than those conducted for other pupils under Chapter 5 (commencing with Section 56500) of Part 30.

In the event that a parent demands a hearing under this subdivision, all time requirements prescribed in this article for suspension or expulsion shall be extended to include the time necessary to conclude the review or appeal of any assessment or determination.

SEC. 5. No reimbursement shall be made from the State Mandates Claims Fund pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code for costs mandated by the state pursuant to this act. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Part 7 (commencing with Section 17500) and any other provisions of law.

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. This act is an urgency statute necessary for the

immediate preservation of 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 local educational agencies shall develop a process for administering the provisions of law relating to the suspension or expulsion of individuals with exceptional needs who have been determined to be subject to disciplinary action, and to ensure that the due process rights of individuals with exceptional needs will be protected, it is necessary that this act take effect immediately.

CHAPTER 908

An act to amend Sections 1375.1, 1377, 1382, and 1393.5 of, and to add Sections 1394.1, 1394.2, and 1394.3 to, the Health and Safety Code, relating to health care service plans.

[Approved by Governor September 21, 1985 Filed with Secretary of State September 23, 1985]

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

SECTION 1. Section 1375.1 of the Health and Safety Code is amended to read:

1375.1. (a) Every plan shall have and shall demonstrate to the commissioner that it has all of the following:

(1) A fiscally sound operation and adequate provision against the risk of insolvency.

(2) Assumed full financial risk on a prospective basis for the provision of covered health care services, except that a plan may obtain insurance or make other arrangements for the cost of providing to any subscriber or enrollee covered health care services, the aggregate value of which exceeds five thousand dollars ($5,000) in any year, for the cost of covered health care services provided to its members other than through the plan because medical necessity required their provision before they could be secured through the plan, and for not more than 90 percent of the amount by which its costs for any of its fiscal years exceed 115 percent of its income for that fiscal year.

(3) A procedure for prompt payment or denial of provider and subscriber or enrollee claims. A procedure meeting the requirements of Subchapter G of the regulations (29 C.F.R. Part 2560) under Public Law 93-406 (88 Stats. 829-1035, 29 U.S.C. Secs. 1001 et seq.) shall satisfy this requirement.

(b) In determining whether the conditions of this section have been met, the commissioner shall consider, but not be limited to, the following:

(1) The financial soundness of the plan's arrangements for health

care services and the schedule of rates and charges used by the plan.

(2) The adequacy of working capital.

(3) Agreements with providers for the provision of health care services.

(c) For the purposes of this section, "covered health care services" means health care services provided under all plan contracts.

SEC. 2. Section 1377 of the Health and Safety Code is amended to read:

1377. (a) Every plan which reimburses providers of health care service that do not contract in writing with the plan to provide health care services, or which reimburses its subscribers or enrollees for costs incurred in having received health care service from providers that do not contract in writing with the plan, in an amount which exceeds 10 percent of its total costs for health care services for the immediately preceding six months, shall do either of the following:

(1) Calculate as of the first day of every month and maintain for the remainder of the month cash, or cash equivalents, as defined by rule of the commissioner, as a reserve for claims for noncontracting provider services at least equal to 120 percent of the sum of the following:

(A) All claims for noncontracting provider services received for reimbursement, but not yet processed.

(B) All claims for noncontracting provider services denied for reimbursement during the previous 60 days.

(C) All claims for noncontracting provider services approved for reimbursement, but not yet paid.

(D) An estimate of claims for noncontracting provider services incurred, but not reported.

(2) Maintain adequate insurance, or a guaranty arrangement approved in writing by the commissioner, to pay for any loss to providers, subscribers, or enrollees claiming reimbursement due to the insolvency of the plan.

Whenever the reimbursements described in this subdivision exceed 10 percent of the plan's total costs for health care services over the immediately preceding six months, the plan shall file a written report with the commissioner containing the information necessary to determine compliance with paragraph (1) no later than 30 business days from the first day of the month. Upon an adequate showing by the plan that the requirements of this subdivision should be waived or reduced, the commissioner may waive or reduce these requirements to an amount as the commissioner deems sufficient to protect subscribers and enrollees of the plan consistent with the intent and purpose of this chapter.

(b) Every plan which reimburses providers of health care service on a fee-for-services basis; or which directly reimburses its subscribers or enrollees, to an extent exceeding 10 percent of its total payments for health care services, shall estimate and record in the books of account a liability for incurred and unreported claims. Upon

a determination by the commissioner that the estimate is inadequate, the commissioner may require the plan to increase its estimate of incurred and unreported claims. Every plan shall promptly report to the commissioner whenever these reimbursables exceed 10 percent of its total expenditures for health care services.

As used herein the term "fee-for-services" refers to the situation where the amount of reimbursement paid by the plan to providers of service is determined by the amount and type of service rendered by the provider of service.

SEC. 3. Section 1382 of the Health and Safety Code is amended to read:

1382. (a) The commissioner shall conduct an examination of the fiscal and administrative affairs of any plan, and each person with whom the plan has made arrangements for administrative, management, or financial services, as often as deemed necessary to protect the interest of subscribers or enrollees, but not less frequently than once every five years.

(b) The expense of conducting any examinations pursuant to this section, and the expense of conducting any medical surveys pursuant to Section 1380 shall be charged against the plan being examined or surveyed. The amount shall include the actual salaries or compensation paid to the persons making the examination or survey, the expenses incurred in the course thereof, and overhead costs in connection therewith as fixed by the commissioner. In determining the cost of examinations or surveys, the commissioner may use the estimated average hourly cost for all persons performing examinations or surveys of plans for the fiscal year. The amount charged shall be remitted by the plan to the commissioner. If recovery of these costs cannot be made from the plan, these costs may be added to, but subject to the limitation of, the assessment provided for in subdivision (b) of Section 1356.

SEC. 4. Section 1393.5 of the Health and Safety Code is amended to read:

1393.5. (a) A person who violates Section 1349, or any person who directly or indirectly participates in the direction of the management or policies of the person in violation of Section 1349, including, but not limited to, any officer, director, partner, or other person occupying a principal management or supervisory position, shall be liable for civil penalties as follows:

(1) A sum not more than two thousand five hundred dollars ($2,500), and (2) a sum not exceeding five hundred dollars ($500) for each subscriber under an individual or group plan contract which was entered into or renewed while such person was in violation of Section 1349.

(b) The penalty specified in paragraph (2) of subdivision (a) shall be imposed only if one or more of the following occurs:

(1) The solicitation of the entry into or renewal of such contract, or of any subscription or enrollment thereunder, included the use by the plan or a representative of the plan of any advertising, evidence

of coverage, or disclosure form which was untrue, misleading, or deceptive.

(2) The contract is not in compliance with this chapter, or the rules adopted pursuant to this chapter.

(3) The plan does not have a financially sound operation and adequate provision against the risk of insolvency.

(4) The plan has operated in violation of the provisions of subdivision (a), (b), (c), (d), or (e) of Section 1367.

(5) The plan has not complied with the provisions of Section 1379.

(c) The civil penalty may be assessed and recovered only in a civil action. The cause of action may be brought in the name of the people of the State of California by the Attorney General or the commissioner, as determined by the commissioner.

SEC. 5. Section 1394.1 is added to the Health and Safety Code, to read:

1394.1. Notwithstanding any other provision of law, the commissioner may file a verified complaint for involuntary dissolution of a health care service plan on any one or more of the grounds specified in subdivision (b) of Section 1386. The complaint shall be filed in the superior court of the county where the principal executive office of the health care service plan is located or, if the principal executive office of the health care service plan is not located in this state, or the health care service plan has no such office, the County of Sacramento.

SEC. 6. Section 1394.2 is added to the Health and Safety Code, to read:

1394.2. Notwithstanding any other provision of law, in any involuntary dissolution of a health care service plan as provided for in Section 1394.1, or other insolvency proceeding involving a health care service plan, the following expenses and claims have priority in the following order:

(a) First, administrative expenses allowed by the superior court and any fees and charges assessed against the estate of the dissolved health care service plan in conjunction with the dissolution of the estate.

(b) Second, taxes due the State of California.

(c) Third, claims having preference by the laws of the United States and by the laws of this state.

(d) Fourth, claims of health care service plan subscribers and enrollees for reimbursement for services rendered by noncontracting providers. Upon proper showing, the superior court may make an order relieving subscribers and enrollees from liability or stay any proceeding to secure payment for any services rendered by a noncontracting provider upon payment, in whole or in part, of the claim or claims of those noncontracting providers.

(e) Fifth, claims of health care service plan group contract holders for reimbursement for services rendered by noncontracting providers to subscribers and enrollees under the group contract.

(f) Sixth, any and all claims, including all officers' and directors'

claims for indemnity, arising against the estate of the dissolved health care service plan.

SEC. 7. Section 1394.3 is added to the Health and Safety Code, to read:

1394.3. Except as provided for in Section 1394.1, and 1394.2, the involuntary dissolution of a health care service plan shall be in accordance with either:

(1) Chapter 18 (commencing with Section 1800) of Division 1 of Title 1 of the Corporations Code, if the plan is incorporated under the General Corporation Law.

(2) Chapter 15 (commencing with Section 8510) of Part 3 of Division 2 of Title 1 of the Corporations Code if the plan is incorporated under the Nonprofit Corporation Law.

SEC. 8. No reimbursement is required by this act pursuant to 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 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 909

An act to amend Sections 632, 633, 633.5, 634, and 635 of, and to add Section 632.5 to, the Penal Code, relating to cellular radio telephones.

[Approved by Governor September 21, 1985 Filed with Secretary of State September 23, 1985]

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

SECTION 1. This act shall be known and may be cited as the Cellular Radio Telephone Privacy Act of 1985.

SEC. 2. The Legislature finds that the advent of widespread use of cellular radio telephone technology means that persons will be conversing over a network which cannot guarantee privacy in the same way that it is guaranteed over landline systems.

The Legislature further finds that there is, at present, no commercially feasible method to prevent unauthorized third parties from eavesdropping upon private cellular radio telephone communications.

The Legislature also finds that the right of privacy has been established under present law in order to prevent the continued and increasing use of new technological devices and techniques suitable only for eavesdropping upon private conversations.

Therefore, the Legislature declares that parties to a cellular radio telephone communication have a right of privacy in that communication, and that this act is intended to provide a legal recourse to those persons whose private cellular radio telephone

communications have been maliciously invaded by persons not intended to receive such communication.

It is not the intent of the Legislature to prohibit the manufacture, sale, possession, or use of electronic scanning devices, or radios, capable of intercepting or receiving radio frequencies other than or in addition to cellular radio frequencies, nor to prohibit the interception or reception of radio frequencies other than the unauthorized malicious interception or reception of cellular radio frequencies.

SEC. 2.5. Section 632 of the Penal Code is amended to read:

632. (a) Every person who, intentionally and without the consent of all parties to a confidential communication, by means of any electronic amplifying or recording device, eavesdrops upon or records the confidential communication, whether the communication is carried on among such parties in the presence of one another or by means of a telegraph, telephone or other device, except a radio, shall be punished by a fine not exceeding two thousand five hundred dollars ($2,500), or imprisonment in the county jail not exceeding one year or in the state prison, or by both that fine and imprisonment. If the person has previously been convicted of a violation of this section or Section 631, 632.5, or 636, the person shall be punished by a fine not exceeding ten thousand dollars ($10,000), by imprisonment in the county jail not exceeding one year or in the state prison, or by both that fine and imprisonment.

(b) The term "person" includes an individual, business association, partnership, corporation, or other legal entity, and an individual acting or purporting to act for or on behalf of any government or subdivision thereof, whether federal, state, or local, but excludes an individual known by all parties to a confidential communication to be overhearing or recording the communication.

(c) The term "confidential communication" includes any communication carried on in circumstances as may reasonably indicate that any party to the communication desires it to be confined to the parties thereto, but excludes a communication made in a public gathering or in any legislative, judicial, executive or administrative proceeding open to the public, or in any other circumstance in which the parties to the communication may reasonably expect that the communication may be overheard or recorded.

(d) Except as proof in an action or prosecution for violation of this section, no evidence obtained as a result of eavesdropping upon or recording a confidential communication in violation of this section shall be admissible in any judicial, administrative, legislative, or other proceeding.

(e) This section does not apply (1) to any public utility engaged in the business of providing communications services and facilities, or to the officers, employees or agents thereof, where the acts otherwise prohibited by this section are for the purpose of

construction, maintenance, conduct or operation of the services and facilities of the public utility, or (2) to the use of any instrument, equipment, facility, or service furnished and used pursuant to the tariffs of such a public utility, or (3) to any telephonic communication system used for communication exclusively within a state, county, city and county, or city correctional facility.

(f) This section does not apply to the use of hearing aids and similar devices, by persons afflicted with impaired hearing, for the purpose of overcoming the impairment to permit the hearing of sounds ordinarily audible to the human ear.

SEC. 3. Section 632.5 is added to the Penal Code, to read:

632.5. (a) Every person who, maliciously and without the consent of all parties to the communication, intercepts, receives, or assists in intercepting or receiving a communication transmitted between cellular radio telephones or between any cellular radio telephone and a landline telephone shall be punished by a fine not exceeding two thousand five hundred dollars ($2,500), by imprisonment in the county jail not exceeding one year or in the state prison, or by both that fine and imprisonment. If the person has been previously convicted of a violation of this section or Section 631, 632, or 636, the person shall be punished by a fine not exceeding ten thousand dollars ($10,000), by imprisonment in the county jail not exceeding one year or in the state prison, or by both that fine and imprisonment.

(b) In the following instances, this section shall not apply:

(1) To any public utility engaged in the business of providing communications services and facilities, or to the officers, employees, or agents thereof, where the acts otherwise prohibited are for the purpose of construction, maintenance, conduct, or operation of the services and facilities of the public utility.

(2) To the use of any instrument, equipment, facility, or service furnished and used pursuant to the tariffs of the public utility.

(3) To any telephonic communication system used for communication exclusively within a state, county, city and county, or city correctional facility.

(c) As used in this section and Section 635, "cellular radio telephone" means a wireless telephone authorized by the Federal Communications Commission to operate in the frequency bandwidth reserved for cellular radio telephones.

SEC. 4. Section 633 of the Penal Code is amended to read:

633. Nothing in Section 631, 632, or 632.5 prohibits the Attorney General, any district attorney, or any assistant, deputy, or investigator of the Attorney General or any district attorney, any officer of the California Highway Patrol, any chief of police, assistant chief of police, or policeman of a city or city and county, any sheriff, undersheriff, or deputy sheriff regularly employed and paid as such of a county, or any person acting pursuant to the direction of one of these law enforcement officers acting within the scope of his or her authority, from overhearing or recording any communication which

they could lawfully overhear or record prior to the effective date of this chapter.

Nothing in Section 631, 632, or 632.5 shall renders inadmissible any evidence obtained by the above-named persons by means of overhearing or recording any communication which they could lawfully overhear or record prior to the effective date of this chapter.

SEC. 5. Section 633.5 of the Penal Code is amended to read:

633.5. Nothing in Section 631, 632, or 632.5 prohibits one party to a confidential communication from recording the communication for the purpose of obtaining evidence reasonably believed to relate to the commission by another party to the communication of the crime of extortion, kidnapping, bribery, any felony involving violence against the person, or a violation of Section 653m. Nothing in Section 631, 632, or 632.5 renders any evidence so obtained inadmissible in a prosecution for extortion, kidnapping, bribery, any felony involving violence against the person, a violation of Section 653m, or any crime in connection therewith.

SEC. 6. Section 634 of the Penal Code is amended to read:

634. Any person who trespasses on property for the purpose of committing any act, or attempting to commit any act, in violation of Section 631, 632, 632.5, or 636 shall be punished by a fine not exceeding two thousand five hundred dollars ($2,500), by imprisonment in the county jail not exceeding one year or in the state prison, or by both that fine and imprisonment. If the person has previously been convicted of a violation of this section or Section 631, 632, 632.5, or 636, the person shall be punished by a fine not exceeding ten thousand dollars ($10,000), by imprisonment in the county jail not exceeding one year or in the state prison, or by both that fine and imprisonment.

SEC. 7. Section 635 of the Penal Code is amended to read:

635. (a) Every person who manufactures, assembles, sells, offers for sale, advertises for sale, possesses, transports, imports, or furnishes to another any device which is primarily or exclusively designed or intended for eavesdropping upon the communication of another, or any device which is primarily or exclusively designed or intended for the unauthorized interception or reception of communications between cellular radio telephones or between a cellular radio telephone and a landline telephone in violation of Section 632.5, shall be punished by a fine not exceeding two thousand five hundred dollars ($2,500), by imprisonment in the county jail not exceeding one year or in the state prison, or by both that fine and imprisonment. If the person has previously been convicted of a violation of this section, the person shall be punished by a fine not exceeding ten thousand dollars ($10,000), by imprisonment in the county jail not exceeding one year or in the state prison, or by both that fine and imprisonment.

(b) This section does not apply to either of the following:

(1) An act otherwise prohibited by this section when performed by (i) a communication utility or an officer, employee or agent

thereof for the purpose of construction, maintenance, conduct or operation of, or otherwise incident to, the use of, the services or facilities of the utility, or (ii) a state, county or municipal law enforcement agency or an agency of the federal government, or (iii) a person engaged in selling devices specified in subdivision (a) for use by, or resale to, agencies of a foreign government under terms approved by the federal government, communication utilities, state, county or municipal law enforcement agencies, or agencies of the federal government.

(2) Possession by a subscriber to communication utility service of a device specified in subdivision (a) furnished by the utility pursuant to its tariffs.

SEC. 8. No reimbursement is required by this act pursuant to 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 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 910

An act to add Section 1091.1 to the Government Code, and to repeal Section 15034.5 of the Unemployment Insurance Code, relating to job training programs.

[Approved by Governor September 21, 1985. Filed with Secretary of State September 23, 1985]

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

SECTION 1. Section 1091.1 is added to the Government Code, to read:

1091.1. Section 1090 shall not apply to any contract or grant made by private industry councils established pursuant to Chapter 4 (commencing with Section 15030) of Division 8 of the Unemployment Insurance Code, unless both of the following conditions are met:

(a) The contract or grant directly bears on services to be provided by any member of a private industry council or any business or organization which the member directly represents, or the contract or grant would financially benefit the member or business or organization which the member represents.

(b) The affected private industry council member fails to comply with Section 87100.

SEC. 2. Section 15034.5 of the Unemployment Insurance Code is repealed.

SEC. 3. Section 1 of this act shall apply retroactively to any contract or grant awarded by a private industry council on or after

January 1, 1983.

CHAPTER 911

An act to add Section 1093 to the Civil Code, and to add Chapter 9 (commencing with Section 1062.10) to Title 14 of Part 2 of the Code of Civil Procedure, relating to real property.

[Approved by Governor September 21, 1985. Filed with Secretary of State September 23, 1985]

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

SECTION 1. Section 1093 is added to the Civil Code, to read:

1093. Absent the express written statement of the grantor contained therein, the consolidation of separate and distinct legal descriptions of real property contained in one or more deeds, mortgages, patents, deeds of trust, contracts of sale, or other instruments of conveyance or security documents, into a subsequent single deed, mortgage, patent, deed of trust, contract of sale, or other instrument of conveyance or security document (whether by means of an individual listing of the legal descriptions in a subsequent single instrument of conveyance or security document, or by means of a consolidated legal description comprised of more than one previously separate and distinct legal description), does not operate in any manner to alter or affect the separate and distinct nature of the real property so described in the subsequent single instrument of conveyance or security document containing either the listing of or the consolidated legal description of the parcels so conveyed or secured thereby.

This section does not constitute a change in, but is declaratory of, the existing law.

SEC. 2. Chapter 9 (commencing with Section 1062.10) is added to Title 14 of Part 2 of the Code of Civil Procedure, to read:

CHAPTER 9. ACTIONS TO ENFORCE REAL PROPERTY AND MOBILEHOME SALES AGREEMENTS

1062.10. No person or legal entity may maintain an action in any court in this state to enforce the terms of an agreement providing for a change in ownership of real property or of a mobilehome subject to local property taxation until the agreement is duly recorded by the county recorder or the change-in-ownership statement required by Section 480 of the Revenue and Taxation Code is filed as provided in that section.

This section shall apply to the enforcement of those agreements which are alleged to have transferred ownership of real property or of a mobilehome subject to property taxation which are entered into

after January 1, 1986.

CHAPTER 912

An act to amend Sections 22505, 22507, and 22653 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 21, 1985. Filed with Secretary of State September 23, 1985.]

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

SECTION 1. Section 22505 of the Vehicle Code is amended to read:

22505. (a) The Department of Transportation with respect to highways under its jurisdiction may place signs or markings prohibiting or restricting the standing or parking of vehicles, including, but not limited to, vehicles which are six feet or more in height (including any load thereon), in any of the following areas and under the following conditions:

(1) In areas where, in its opinion, standing or parking is dangerous to those using the highway or where the standing or parking of vehicles would unduly interfere with the free movement of traffic thereon.

(2) In areas within one-half mile of the boundary of any unit of the state park system which the Director of Conservation has determined are unusually high fire hazard areas, upon notification of the Department of Transportation of such determination by the Director of Conservation.

(3) In areas within one-half mile of the boundary of any unit of the state park system which the county health officer has determined are areas where a substantial public health hazard would result if camping were allowed, upon notification of the Department of Transportation of such determination by the county health officer.

(b) No person shall park or leave standing any vehicle in violation of the restrictions stated on the signs or markings.

(c) This section does not apply to any of the following:

(1) Public utility vehicles while performing a work operation.

(2) The driver of any vehicle which is disabled in such a manner and to such an extent that it is impossible to avoid parking or leaving the disabled vehicle standing on the roadway.

SEC. 2. Section 22507 of the Vehicle Code is amended to read:

22507. Local authorities may, by ordinance or resolution, prohibit or restrict the parking or standing of vehicles, including, but not limited to, vehicles which are six feet or more in height (including any load thereon) within 100 feet of any intersection, on certain streets or highways, or portions thereof, during all or certain hours of the day. The ordinance or resolution may include a designation of

certain streets upon which preferential parking privileges are given to residents and merchants adjacent to the streets for their use and the use of their guests, under which the residents and merchants may be issued a permit or permits which exempt them from the prohibition or restriction of the ordinance or resolution. With the exception of alleys, no such ordinance or resolution shall apply until signs or markings giving adequate notice thereof have been placed. A local ordinance or resolution adopted pursuant to this section may contain provisions which are reasonable and necessary to ensure the effectiveness of a preferential parking program.

SEC. 3. Section 22653 of the Vehicle Code is amended to read:

22653. (a) 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, other than an employee directing traffic or enforcing parking laws and regulations, may remove a vehicle from private property located within the territorial limits in which the officer is empowered to act, when 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.

(b) 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, may, after a reasonable period of time, remove a vehicle from private property located within the territorial limits in which the officer is empowered to act, if the vehicle has been involved in, and left at the scene of, a traffic accident and no owner is available to grant permission to remove the vehicle. This subdivision does not authorize the removal of a vehicle where the owner has been contacted and has refused to grant permission to remove the vehicle.

(c) 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, may, at the request of the property owner or person in lawful possession of any private property, remove a vehicle from private property located within the territorial limits in which the officer is empowered to act 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 authorized to take, and does take the person arrested before a magistrate without unnecessary delay.

CHAPTER 913

An act to add Section 1748.1 to the Civil Code, relating to credit cards.

[Approved by Governor September 23, 1985 Filed with Secretary of State September 24, 1985]

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

SECTION 1. Section 1748.1 is added to the Civil Code, to read:

1748.1. (a) No retailer in any sales transaction may impose a surcharge on a cardholder who elects to use a credit card in lieu of payment by cash, check, or similar means. A retailer may, however, offer discounts for the purpose of inducing payment by cash, check, or other means not involving the use of a credit card, provided that the discount is offered to all prospective buyers.

(b) Any retailer who willfully violates the provisions of this section by imposing a surcharge on a cardholder who elects to use a credit card and who fails to pay that amount to the cardholder within 30 days of a written demand by the cardholder of the retailer by certified mail, shall be liable to the cardholder for three times the amount at which actual damages are assessed. The cardholder shall also be entitled to recover reasonable attorney's fees and costs incurred in the action.

A cause of action under this section may be brought in small claims court, if it does not exceed the jurisdiction of that court, or in any other appropriate court.

(c) For purposes of this section, "any sales transaction" means a "lease" as defined in subdivision (g) of Section 1791 or "sale" as defined in subdivision (n) of Section 1791.

(d) It is the intent of the Legislature to promote the effective operation of the free market and protect consumers from deceptive price increases for goods and services by prohibiting credit card surcharges and encouraging the availability of discounts by those retailers who wish to offer a lower price for goods and services purchased by some form of payment other than credit card.

CHAPTER 914

An act to amend Section 9356.21 of the Government Code, relating to public retirement, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 23, 1985. Filed with Secretary of State September 24, 1985.]

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

SECTION 1. Section 9356.21 of the Government Code is amended to read:

9356.21. Each member or former member who retired on or after December 1, 1981, who has 10 years of credited service in this system on or before December 31, 1984, shall receive credit for active service of not less than one year in the armed forces of the United States, or continuous active service of not less than one year in the

Merchant Marine of the United States prior to January 1, 1950, which service was rendered prior to assuming for the first time a state office for which membership in the system was elective and terminated with a discharge under other than dishonorable conditions; provided, however, that the credit to be given for that service shall be on the basis of one year of credit for each five years of credited service in this system, but shall not exceed a total of four years regardless of the number of years of either that service or subsequent service in this system. However, any member or retired former member electing to receive a credit for such military service shall contribute in lump sum or by installments over such period and subject to such minimum payments as may be prescribed by regulations of the board, at the member's contribution rate at the time of election or the retired person's contribution rate at retirement applied, respectively, to the average annual compensation of the member over the three years immediately preceding the election or the average annual compensation of the retired person over the three years immediately preceding retirement.

Military service credit shall not be granted for any military service to which any of the following apply:

(a) In any period for which credit is otherwise given under Section 9356.2.

(b) For which service credit was received under any other retirement system.

(c) To the extent that total credit under this section would exceed four years.

An election by a member with respect to military service under this section may be made only while the member is in service in this system and an election by a member or retired former member shall be made before January 1, 1986.

Any resulting increase in the allowance of a retired former member shall be applied prospectively only.

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:

Chapter 1759 of the Statutes of 1984 authorized the granting of service credit in the Legislators' Retirement System for military service, as specified, if the member elects therefor before January 1, 1986. In order that the revision effected by this act of the conditions upon that authorization may be implemented prior to that deadline, it is necessary that this act take effect immediately.

CHAPTER 915

An act to amend Section 4532 of the Penal Code, relating to crimes.

[Approved by Governor September 23, 1985 Filed with Secretary of State September 24, 1985.]

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

SECTION 1. Section 4532 of the Penal Code is amended to read:

4532. (a) Every prisoner arrested and booked for, charged with, or convicted of a misdemeanor, and every person committed under the terms of Section 5654, 5656, or 5677 of the Welfare and Institutions Code as an inebriate, who is confined in any county or city jail or prison or industrial farm or industrial road camp or who is engaged on any county road or other county work or who is in the lawful custody of any officer or person, or who is employed or continuing in his or her regular educational program or authorized to secure employment or education away from the place of confinement, pursuant to the Work Furlough Rehabilitation Law (Section 1208), or who is authorized for temporary release for family emergencies or for purposes preparatory to his or her return to the community pursuant to Section 4018.6, and who thereafter escapes or attempts to escape from such county or city jail, prison, industrial farm or industrial road camp or from the custody of the officer or person in charge of him or her while engaged in or going to or returning from such county work or from the custody of any officer or person in whose lawful custody he or she is, is guilty of a felony and, if such escape or attempt to escape was not by force or violence, is punishable by imprisonment in the state prison for a determinate term of one year and one day, or in the county jail not exceeding one year; provided, however, that if such escape or attempt to escape is by force or violence, such person is guilty of a felony and is punishable by imprisonment in the state prison for two, four, or six years to be served consecutively, or in the county jail not exceeding one year; provided, that when the second term of imprisonment is to be served in the county jail it shall commence from the time such prisoner would otherwise have been discharged from jail.

The willful failure of a prisoner, whether convicted of a felony or a misdemeanor, employed or continuing in his regular educational program or authorized to secure employment or education pursuant to the Work Furlough Rehabilitation Law (Section 1208) or authorized for temporary release for family emergencies or for purposes preparatory to his or her return to the community pursuant to Section 4018.6, to return to the place of confinement not later than the expiration of a period during which, pursuant to that law, he or she is authorized to be away from such place of confinement, is an escape from such place of confinement punishable as provided in this subdivision.

A conviction of violation of this subdivision, not by force or violence, shall not be charged as a prior felony conviction in any subsequent prosecution for a public offense.

(b) Every prisoner arrested and booked for, charged with, or convicted of a felony who is confined in any county or city jail or prison or industrial farm or industrial road camp or who is engaged on any county road or other county work or who is in the lawful custody of any officer or person, or who is confined pursuant to Section 4011.9, who escapes or attempts to escape from such county or city jail, prison, industrial farm or industrial road camp or from the custody of the officer or person in charge of him or her while engaged in or going to or returning from such county work or from the custody of any officer or person in whose lawful custody he or she is, or from confinement pursuant to Section 4011.9, is guilty of a felony and, if such escape or attempt to escape was not by force or violence, is punishable by imprisonment in the state prison for 16 months, or two or three years to be served consecutively, or in the county jail not exceeding one year; provided, that if such escape or attempt to escape is by force or violence, such person is guilty of a felony and is punishable by imprisonment in the state prison for a full term of two, four, or six years to be consecutive to any other term of imprisonment, commencing from the time the person would otherwise have been released from imprisonment and the term shall not be subject to reduction pursuant to subdivision (a) of Section 1170.1, or in the county jail for a consecutive term not to exceed one year, that term to commence from the time such prisoner would otherwise have been discharged from such jail.

(c) Except in unusual cases where the interests of justice would best be served if the person is granted probation, probation shall not be granted to any person who is convicted of a felony offense under this section in that he or she escaped or attempted to escape from a secure main jail facility, from a court building or while being transported between the court building and the jail facility. In any case in which a person is convicted, of such an offense designated as a misdemeanor, he or she shall be confined in the county jail for not less than 90 days nor more than one year except in unusual cases where the interests of justice would best be served by the granting of probation. For the purposes of this subdivision, "main jail facility" means the facility used for the detention of persons pending arraignment, after arraignment, during trial and upon sentence or commitment. The facility shall not include an industrial farm, industrial road camp, work furlough facility, or any other nonsecure facility used primarily for sentenced prisoners. As used in this subdivision "secure" means that the facility contains an outer perimeter characterized by the use of physically restricting construction, hardware, and procedures designed to eliminate ingress and egress from the facility except through a closely supervised gate or doorway.

If the court grants probation under this subdivision, it shall specify

the reason or reasons for such order on the court record.

Any sentence imposed under this subdivision shall be served consecutive to any other sentence in effect or pending.

CHAPTER 916

An act to amend Section 4046 of the Business and Professions Code, relating to pharmacy.

[Approved by Governor September 23, 1985 Filed with Secretary of State September 24, 1985]

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

SECTION 1. Section 4046 of the Business and Professions Code is amended to read:

4046. (a) In recognition of and consistent with the decisions of the appellate courts of this state, the Legislature hereby declares the practice of pharmacy to be a profession.

(b) Pharmacy practice is a dynamic patient-oriented health service that applies a scientific body of knowledge to improve and promote patient health by means of appropriate drug use and drug-related therapy.

(c) Neither this chapter nor any other provision of law shall be construed to prohibit a registered pharmacist from:

(1) Furnishing to a prescriber a reasonable quantity of compounded medication for prescriber office use.

(2) Transmitting to another registered pharmacist a valid prescription.

(3) Administering, orally or topically, drugs and biologicals pursuant to a prescriber's order.

(4) Performing the following procedures or functions in a licensed health care facility in accordance with policies, procedures, or protocols developed by health professionals, including physicians and surgeons, pharmacists, and registered nurses, with the concurrence of the facility administrator:

(A) Ordering or performing routine drug therapy related patient assessment procedures including temperature, pulse, and respiration.

(B) Ordering drug therapy related laboratory tests.

(C) Administering drugs and biologicals by injection pursuant to a prescriber's order (the administration of immunizations under the supervision of a prescriber may also be performed outside of a licensed health care facility).

(D) Initiating or adjusting the drug regimen of a patient pursuant to an order or authorization made by the patient's prescriber and in accordance with the policies, procedures, or protocols of the licensed health care facility.

As used in this paragraph, "licensed health care facility" means a facility licensed pursuant to Article 1 (commencing with Section 1250) of Chapter 2 of Division 2 of the Health and Safety Code or a facility, as defined in Section 1250 of the Health and Safety Code, operated by a health care service plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code.

(d) Prior to performing any procedure authorized by paragraph (4) of subdivision (c), a registered pharmacist shall have received appropriate training as prescribed in the policies and procedures of the licensed health care facility.

CHAPTER 917

An act to add Section 66473.3 to the Government Code, relating to subdivisions.

[Approved by Governor September 23, 1985. Filed with Secretary of State September 24, 1985]

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

SECTION 1. Section 66473.3 is added to the Government Code, to read:

66473.3. The legislative body of a city or county may, by ordinance, require the design of a subdivision for which a tentative map or parcel map is required pursuant to Section 66426 to provide one or more appropriate cable television systems an opportunity to construct, install, and maintain, on land identified on the map as dedicated or to be dedicated to public utility use, any equipment necessary to extend cable television services to each residential parcel in the subdivision.

"Appropriate cable television systems," as used in this section, means those franchised or licensed to serve the geographical area in which the subdivision is located.

This section shall not apply to the conversion of existing dwelling units to condominiums, community apartments, or stock cooperatives.

CHAPTER 918

An act to add Section 60200.5 to the Education Code, relating to instructional materials.

[Approved by Governor September 23, 1985 Filed with Secretary of State September 24, 1985.]

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

SECTION 1. Section 60200.5 is added to the Education Code, to read:

60200.5. Instructional materials adopted under this chapter shall, where appropriate, be designed to impress upon the minds of the pupils the principles of morality, truth, justice, patriotism, and a true comprehension of the rights, duties, and dignity of American citizenship, and to instruct them in manners and morals and the principles of a free government. The State Board of Education shall endeavor to see that this objective is accomplished in the evaluation of instructional materials for educational content in appropriate subject areas.

CHAPTER 919

An act relating to Alzheimer's disease.

[Approved by Governor September 23, 1985 Filed with Secretary of State September 24, 1985]

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

SECTION 1. Recognizing that maintaining victims having Alzheimer's disease or related disorders in the home environment with the support of family members provides the most humane and cost-effective method of caring for the neurologically disabled, the Alzheimer's Disease Task Force established pursuant to Chapter 1.6 (commencing with Section 171) of Part 1 of Division 1 of the Health and Safety Code shall conduct, as its first priority, a study to determine the feasibility of insurance coverage for respite care services that make it possible to maintain the disabled person in the home for as long as possible. The task force shall report its findings and recommendations to the Legislature by January 1, 1987.

CHAPTER 920

An act to amend Section 72252 of the Education Code, and to amend Section 19 of Chapter 1 of the 1983–84 Second Extraordinary Session, relating to community colleges.

[Approved by Governor September 23, 1985 Filed with Secretary of State September 24, 1985]

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

SECTION 1. Section 72252 of the Education Code is amended to read:

72252. (a) Commencing with the semester, term, or quarter which begins after July 31, 1984, the governing board of each community college district shall charge each student a fee, pursuant to this section.

(b) The fee prescribed by this section shall equal fifty dollars ($50) per semester for students enrolled in classes totaling six or more credit semester units, and five dollars ($5) per unit per semester for students enrolled in classes totaling less than six credit semester units.

The chancellor shall proportionately adjust the amount of the fee for term lengths based upon a quarter system or other alternative system approved pursuant to Section 78002, and shall also proportionately adjust the amount of the fee for summer sessions, intersessions, and other short-term courses. In making these adjustments, the chancellor may round the per unit fee and the per term or per session fee to the nearest dollar.

(c) For the purposes of computing apportionments to community college districts, 98 percent of the revenues received by districts from charging a fee pursuant to this section or from fees defrayed pursuant to subdivision (f) shall be deemed to be local property tax revenue within the meaning of subdivision (b) of Section 84700.

(d) The chancellor shall reduce apportionments by up to 10 percent to any district which does not collect the fees prescribed by this section.

(e) The fee requirement shall not apply to students enrolled in the noncredit courses designated by Section 84711, or to California State University or University of California students enrolled in remedial classes provided by a community college district on a campus of the University of California or a campus of the California State University, for whom the district claims an attendance apportionment pursuant to an agreement between the district and the California State University or the University of California.

(f) The fee requirements of this section shall be defrayed pursuant to Section 19 of Chapter 1 of the 1983–84 Second Extraordinary Session for any student who, at the time of enrollment, is a recipient of benefits under the Aid to Families with Dependent Children program, the Supplemental Security Income/State Supplementary Program, or a general assistance program.

(g) Student financial aid funds appropriated for the purpose of assisting students to pay the fee required by this section may be awarded without regard to the requirements of Chapter 2 (commencing with Section 69500) of Part 42.

(h) The board of governors shall adopt regulations implementing this section as regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2

of the Government Code.

(i) 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 19 of Chapter 1 of the 1983–84 Second Extraordinary Session is amended to read:

Sec. 19. (a) There is hereby appropriated the following sums to the Board of Governors of the California Community Colleges for the purpose of providing financial aid funds directly to low-income students who cannot afford to pay the fee specified in Section 72252 of the Education Code, and for the purpose of defraying fees pursuant to subdivision (f) of Section 72252:

Period	Amount
July 1, 1984 to June 30, 1985	$15,000,000
July 1, 1985 to June 30, 1986	15,000,000
July 1, 1986 to June 30, 1987	15,000,000
July 1, 1987 to January 1, 1988	7,500,000

(b) The chancellor shall allocate the funds appropriated by subdivision (a) to community college districts. In prescribing the manner of allocation, the chancellor shall endeavor to ensure that students with similar characteristics shall be treated similarly with respect to the provision of financial aid pursuant to this section, regardless of the community college they attend.

In allocating funds pursuant to this section, the chancellor shall consider the number of financial aid recipients in each district and the availability of federal and other state financial aid resources.

The chancellor may allocate up to 7 percent of the total amount appropriated by subdivision (a) to community college districts for delivery of student financial aid services required as a result of this section. Funds so allocated for delivery of student financial aid services shall supplement, and shall not supplant, the level of funds allocated for the administration of student financial aid programs during the 1983–84 fiscal year.

(c) Financial aid shall be provided pursuant to this section only to those students required to pay the fee specified in Section 72252 of the Education Code, and only in an amount equal to the fee actually charged the student pursuant to that section. In addition, the chancellor shall pay districts the amount of fees defrayed pursuant to subdivision (f) of Section 72252.

(d) Districts which receive an allocation of funds pursuant to this section shall utilize appropriate financial need criteria for the distribution of the funds. These criteria may include, but are not limited to, nationally accepted needs analysis methodologies, evidence of need based upon the receipt of public assistance, or other reasonable methods.

(e) The chancellor shall submit a plan made pursuant to subdivision (b) to the California Postsecondary Education Commission, the

Legislative Analyst, and to the fiscal and education policy committees of each house of the Legislature by June 15, 1984.

The California Postsecondary Education Commission shall review the plan and submit its recommendations to the fiscal and education policy committees of each house of the Legislature.

(f) If the amount appropriated pursuant to this section exceeds the need for financial aid to students who cannot afford to pay the fee charged pursuant to Section 72252, the excess shall revert to the General Fund.

(g) If the amount needed for financial aid to students who cannot afford to pay the fee charged pursuant to Section 72252 and to pay districts for the total amount of fees defrayed pursuant to subdivision (f) of Section 72252 is greater than the amount appropriated by this section, the chancellor shall certify to the Department of Finance the amount of the additional funds which are required. Upon receipt of this certification, the Director of Finance shall take any administrative action available to him or her to transfer the additional funds, pursuant to the Budget Act or otherwise.

(h) If additional funds are needed to administer the financial aid funds provided by this section for the 1984–85 fiscal year, the chancellor shall certify to the Department of Finance the amount of additional funds which are required. Upon receipt of this certification, the Director of Finance shall certify to the Controller the necessity for the additional funds. Upon receipt of the director's certification, the Controller shall transfer to the chancellor the additional amount needed, not to exceed two hundred thousand dollars ($200,000), from the amount appropriated by this section for the period of July 1, 1984, to June 30, 1985.

CHAPTER 921

An act to amend Sections 19850.1, 19850.3, 20022.1, and 20022.2 of, and to add Section 20022.05 to, the Government Code, relating to state employees, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 23, 1985 Filed with Secretary of State September 24, 1985]

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

SECTION 1. 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 annual uniform allowance to state employees for the replacement of uniforms worn on a full-time basis, and an annual uniform allowance to state employees for the

replacement of uniforms worn on a part-time basis, in amounts agreed upon in a memorandum of understanding reached pursuant to Section 3517.5.

(b) 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 annual uniform allowance for the replacement of uniforms worn on a full-time basis, and an annual uniform allowance for the replacement of uniforms worn on a part-time basis, in amounts determined by the department.

SEC. 2. 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 uniform allowance for employees provided by subdivision (a) of Section 19850.1 shall be the average annual replacement cost as agreed upon in a memorandum of understanding reached pursuant to Section 3517.5. The uniform allowance for employees provided by subdivision (c) of Section 19850.1 shall be the average annual replacement cost as determined by the department.

(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. 3. Section 20022.05 is added to the Government Code, to read:

20022.05. (a) Notwithstanding the provisions of paragraphs (5) and (6) of subdivision (a) of Section 20022 and paragraph (11) of subdivision (b) of Section 20022, the Department of Personnel

Administration shall determine which payments and allowances that are paid by the state employer will be considered compensation for retirement purposes for any employee who either is 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.

(b) Notwithstanding the provisions of paragraphs (5) and (6) of subdivision (a) of Section 20022 and paragraph (11) of subdivision (b) of Section 20022, the Trustees of the California State University shall determine which payments and allowances that are paid by the trustees will be considered compensation for retirement purposes for any managerial employee as defined in subdivision (*l*) of Section 3562, or supervisory employee as defined in Section 3580.3.

(c) Notwithstanding any other provision of this part, all special compensation, as defined in paragraph (5) of subdivision (a) of Section 20022 and paragraph (11) of subdivision (b) of Section 20022 for state members, heretofore reported or not reported is hereby ratified, confirmed, and validated.

(d) Any statutory reference to Section 20022 shall be deemed to also be a reference to this section.

SEC. 4. Section 20022.1 of the Government Code is amended to read:

20022.1. For state employees in classifications designated by the Director of the Department of Personnel Administration who are also excluded from, or otherwise not subject to, collective bargaining, and for employees in bargaining units for which a memorandum of understanding has been agreed to by the state employer and the recognized employee organization to become subject to this section, compensation for uniforms shall not constitute "compensation" for the purposes of the computation of retirement contributions by employees and the state or for the purposes of the calculation of retirement benefits.

SEC. 5. Section 20022.2 of the Government Code is amended to read:

20022.2. "Compensation" shall not include, in addition to those items specified in Section 20022, all of the following:

(a) One time cash-out of eight hours of educational leave for all eligible employees in bargaining unit 3, except for exempt employees of the special schools of the Department of Education and the California Maritime Academy.

(b) Education differential for employees in bargaining unit 17.

(c) Safety incentive award, cash bonus pilot program, tool allowance, overtime meal allowance payments, Class I and Class II driver's license medical examination payments, and health and safety incentive award for employees in bargaining unit 12.

(d) Sustained superior accomplishment awards.

This section shall remain in effect only until June 30, 1987, and as of that date is repealed, unless a later enacted statute, which is

enacted before June 30, 1987, deletes or extends that date.

SEC. 6. This act shall be operative with respect to uniform allowances for periods of employment on and after July 1, 1984.

SEC. 7. The Legislature finds and declares that increases in the uniform allowances for state represented employees which became effective on July 1, 1984, pursuant to approved memoranda of understanding which are controlling over the maximum allowances provided by statute, were intended by the Legislature to also apply to nonrepresented employees, but due to an oversight, the necessary statutory changes were not made. In order for nonrepresented employees to receive the same increases in uniform allowance benefits provided to represented employees, it is necessary for this act to apply retroactively to July 1, 1984.

SEC. 8. 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 2 - Association of California State Attorneys, dated August 29, 1985.

(b) Unit 7 - California Union of Safety Employees, dated September 2, 1985.

(c) Unit 18 - Communications Workers of America, dated September 12, 1985.

SEC. 9. The provisions which require the expenditure of funds in the addendum, dated August 28, 1985, to the memorandum of understanding reached pursuant to Section 3517.5 of the Government Code between the state employer and the International Union of Operating Engineers for Unit 13, are hereby approved for the purposes of Section 3517.6 of the Government Code.

SEC. 10. Any provisions in a memorandum of understanding approved by Section 11 or 12 which are scheduled to take effect on or after July 1, 1986, and which require the expenditure of funds, shall not take effect unless funds for these provisions are specifically appropriated by the Legislature.

SEC. 11. Notwithstanding Section 3517.6 of the Government Code, the provisions of any memorandum of understanding that require the expenditure of funds shall become effective even if the provisions of the memorandum of understanding are approved by the Legislature in legislation other than the annual Budget Act.

SEC. 12. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for nonrepresented state employees to receive the same increases in uniform allowances that were provided to represented employees at the earliest possible time, and in order for the

provisions of this act to be applicable for the entire 1985–86 fiscal year, it is necessary for this act to take effect immediately.

CHAPTER 922

An act to amend Section 19850 of, and to add Section 19850.7 to, the Government Code, and to amend Section 10430 of the Public Contract Code, relating to state employees, and making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 23, 1985 Filed with Secretary of State September 24, 1985.]

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

SECTION 1. The Legislature finds and declares that due to the high occurrence of violence, specifically assaults by inmates against peace officers in the Department of Corrections and in the California Youth Authority, the state has an ethical obligation to provide safety equipment that will minimize the possibility of bodily injury or death if an officer is assaulted.

SEC. 2. 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.

Except as provided in Section 19850.7, 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 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 19850.7 is added to the Government Code, to read:

19850.7. In addition to other equipment furnished to peace officers within the Department of Corrections and the California Youth Authority, the department and the California Youth Authority, in accordance with the terms of a memorandum of understanding reached pursuant to Section 3517.5, shall provide protective vests for peace officers within the department and the California Youth Authority. The protective vests shall be manufactured to specifications as agreed to by the state employer and the employee representative after consultation with appropriate state agencies. The protective vests shall cover the entire torso of a peace officer and shall be designed so that they are capable of protecting an officer against a knife attack.

SEC. 4. Section 10430 of the Public Contract Code is amended to read:

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.

(e) The emergency purchase of protective vests for correctional peace officers whose duties require routine contact with state prison inmates. This subdivision shall remain operative only until January 1, 1987.

SEC. 5. (a) The sum of seven hundred fifty thousand dollars ($750,000) is hereby appropriated from the General Fund to the Controller for purposes of carrying out the provisions of this act. The funds appropriated by this act are appropriated without regard to fiscal year and shall be continuously available to the Department of Corrections and the California Youth Authority until exhausted.

(b) It is the intent of the Legislature that any additional costs incurred by the Department of Corrections and the California Youth Authority in carrying out this act in excess of this appropriation be funded in the Budget Act of 1987.

SEC. 6. The provisions of the memorandum of understanding for Unit 6, prepared pursuant to Section 3517.6 of the Government Code and entered into by the state employer and the California Correctional Peace Officers Association, dated August 29, 1985, which require the expenditure of funds, are hereby approved for the purposes of Section 3517.6 of the Government Code.

SEC. 7. Any provisions in the memorandum of understanding approved by Section 6 which are scheduled to take effect on or after July 1, 1986, and which require the expenditure of funds, shall not take effect unless funds for these provisions are specifically appropriated by the Legislature.

SEC. 8. Notwithstanding Section 3517.6 of the Government Code, the provisions of any memorandum of understanding that require the expenditure of funds shall become effective even if the provisions of the memorandum of understanding are approved by the Legislature in legislation other than the annual Budget 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 to protect the safety and the lives of the peace officers of the Department of Corrections and the California Youth Authority, and in order for the provisions of this act to be applicable for the entire 1985–86 fiscal year, it is necessary that this act take effect immediately.

CHAPTER 923

An act to repeal and add Section 6306 of the Public Resources Code, and to amend Section 15 of Chapter 651 of the Statutes of 1929, relating to state lands, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 23, 1985 Filed with Secretary of State September 24, 1985]

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

SECTION 1. Section 6306 of the Public Resources Code is repealed.

SEC. 2. Section 6306 is added to the Public Resources Code, to read:

6306. (a) Notwithstanding any other provision of law, every county, city, district, or other political subdivision or agency of the

state to which sovereign trust lands, including tidelands, submerged lands, or the beds of navigable waters, have been, or in the future are, granted, conveyed, or transferred by statute, shall establish and maintain accounting procedures, in accordance with generally accepted accounting principles, providing accurate records of all revenues received from the trust lands and trust assets and of all expenditures of those revenues. Where a trust grantee has several trust grants of adjacent lands and operates the granted lands as a single integrated entity, separation of accounting records for each trust grant is not required.

(b) All revenues received from trust lands and trust assets shall be expended only for those uses and purposes consistent with the public trust for commerce, navigation, and fisheries, and the applicable statutory grant or grants.

(c) Unless otherwise prescribed by law, on or before October 1 of each year, commencing October 1, 1986, each trust grantee shall file with the commission a detailed statement of all revenues and expenditures relating to its trust lands and trust assets, including obligations incurred but not yet paid, covering the fiscal year preceding submission of the statement. The statement shall be prepared in accordance with generally accepted accounting principles and may take the form of an annual audit prepared by or for the trust grantee.

SEC. 3. Section 15 of Chapter 651 of the Statutes of 1929, as added by Chapter 926, Statutes of 1979, is amended to read:

Sec. 15. (a) Whenever it appears to the city to be expedient and in the best interests of the state for the settlement of boundary and title disputes or for carrying out the purposes set forth in Sections 1 and 3 of this act, and it further appears that no substantial interference with the trust uses and purposes would ensue, the city may exchange with any state agency, political subdivision, person, entity, or corporation, or the United States, or any agency thereof, lands for lands of equal or greater value located within the area described as follows:

That certain parcel of land situated in the "San Pedro, Wilmington, and Terminal Island Districts" of the City of Los Angeles, County of Los Angeles, State of California, more particularly described as follows:

Commencing at the intersection of the boundary of the City of Los Angeles and City of Long Beach and the federal breakwater at San Pedro; thence westerly along that breakwater to the intersection of that breakwater with Oliver Vickery Circle; thence westerly along the centerline of the southerly portion of that circle to its intersection with the centerline of Stephen White Drive; thence westerly along that centerline to its intersection with the centerline of Pacific Avenue; thence northerly along that centerline to its intersection with the centerline of 22nd Street; thence easterly along that centerline to a point at the centerline of Crescent Avenue; thence northerly along that centerline to a point on the centerline of Harbor

Boulevard; thence northerly along that centerline to a point on the centerline of O'Farrell Street; thence westerly along that centerline to a point on the centerline of Pacific Avenue; thence northerly along that centerline to a point on the centerline of Channel Street; thence westerly along that centerline to the easterly extremity of the right-of-way for State Highway Route 110 (commonly known as the Harbor Freeway); thence northerly along that extremity to a point on the centerline of "C" Street in the Wilmington District of the city; thence easterly along that centerline to the centerline of Broad Street; thence southerly along that centerline to the centerline of "B" Street; thence easterly along that centerline to the centerline of Alameda Street; thence northeasterly along that centerline to the centerline of Grant Street; thence easterly along that centerline and its prolongation to a point on the easterly extremity of the right-of-way for the Dominquez Channel; thence northeasterly along that right-of-way to a boundary line common to the City of Carson and the City of Los Angeles; thence northerly along that common boundary line to a point at the southerly extremity of a right-of-way for State Highway Route 405 (commonly known as the San Diego Freeway); thence southerly to an angle point common to boundary lines for the Cities of Carson, Long Beach, and Los Angeles; thence continuing southerly along the boundary line common to the Cities of Long Beach and Los Angeles to the point of beginning. Any lands so acquired shall have the same status as to administration, control, and disposition as the lands for which they were exchanged.

(b) No exchange shall be effective unless and until the State Lands Commission does both of the following:

(1) Finds that the lands to be acquired by the city are of equal or greater value than the lands for which they are to be exchanged.

(2) Approves the exchange.

(c) The lands exchanged by the city may be improved, filled, and reclaimed by the recipient thereof subject to all necessary approvals by local, regional, state, or federal entities. Upon the adoption of a resolution by the State Lands Commission finding and declaring that the lands have been improved, filled, and reclaimed, and have thereby been excluded from the public channels and are no longer available, useful, or susceptible of being used for navigation, fishing, and for other trust uses and purposes, and are no longer in fact tidelands or submerged lands, the lands shall thereupon be free from the public trust upon which they were held.

(d) Exchanges made pursuant to this section are hereby found to be of statewide significance and importance, and, therefore, any provision of any law, regulation, charter, or statute inconsistent with this section shall not be applicable to the exchange.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the local agency or school district has the authority to use trust funds, an existing source provided by the trust grant, sufficient to pay for the

program or level of service mandated by this act.

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. This act is an urgency statute necessary for the immediate preservation of 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 revised accounting procedures and records of revenues and expenditures of funds from trust lands and in order to resolve a dispute regarding certain trust lands in the City of Los Angeles at the earliest possible time, thereby evoking development and expansion of port facilities in furtherance of trust purposes, it is necessary that this act take effect immediately.

CHAPTER 924

An act to add Article 4.1 (commencing with Section 3240) to Chapter 1 of Division 3 of the Public Resources Code, relating to abandoned wells, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 23, 1985 Filed with Secretary of State September 24, 1985]

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

SECTION 1. Article 4.1 (commencing with Section 3240) is added to Chapter 1 of Division 3 of the Public Resources Code, to read:

Article 4.1. Abandoned Wells

3240. The supervisor, in cooperation with appropriate state and local agencies, shall conduct a study of abandoned oil and gas wells located in those areas of the state with substantial potential for methane and other hazardous gas accumulations in order to determine the location, the extent of methane gas and other hazardous gas accumulations, and potential hazards from the abandoned wells.

3241. The supervisor, in cooperation with appropriate state and local agencies, shall develop a strategy for extracting existing accumulations of methane gas and other hazardous gas from abandoned oil and gas wells in high-risk areas identified by the supervisor in order to protect the health and safety of the public. The strategy shall also provide plans for the management of methane gas and other hazardous gas from wells in high-risk areas where no

accumulations are discovered in order to prevent future accumulations of methane gas and other hazardous gas.

3242. The supervisor shall report the findings and recommendations developed pursuant to the requirements of this article to the Legislature on or before July 1, 1986.

SEC. 2. The sum of three hundred fifty thousand dollars ($350,000) is hereby appropriated from the General Fund to the State Oil and Gas Supervisor for carrying out the purposes of Article 4.1 (commencing with Section 3240) of Chapter 1 of Division 3 of the Public Resources 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:

Recent methane gas explosions in the City of Los Angeles have threatened the public health and safety and it is, therefore, necessary that this act take effect at the earliest possible opportunity.

CHAPTER 925

An act to add and repeal Sections 14078.5 and 14078.6 of the Welfare and Institutions Code, relating to public social services, and making an appropriation therefor.

[Approved by Governor September 23, 1985 Filed with Secretary of State September 24, 1985]

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

SECTION 1. Section 14078.5 is added to the Welfare and Institutions Code, to read:

14078.5. (a) The Legislature intends that the director shall study the availability of dental health resources and methods of reducing the incidence of dental disease for persons who are "developmentally disabled" pursuant to Section 4512 and who are clients of regional centers serving persons who have developmental disabilities.

(b) By March 1, 1986, the director, in consultation with the Director of Developmental Services and the Association of Regional Center Agencies (ARCA), shall submit findings to the Legislature in a report which shall include, but not be limited to, the following:

(1) Identification of the number of persons with developmental disabilities who are eligible for dental services under the Medi-Cal program, which is regulated by Sections 51307, 51506, 51506.1, and 51506.2 of Title 22 of the California Administrative Code.

(2) Indication of the type and level of services which were authorized by the regulations and provided in the three fiscal years immediately preceding the effective date of this act.

(3) The usual and customary rate of reimbursement for dental services when provided through private payment without reimbursement under the Medi-Cal program.

The report shall include recommendations for changing eligibility for, and the level and scope of, services in order to meet the needs of persons with developmental disabilities.

(c) This section shall remain in effect only until July 1, 1989, and as of that date is repealed, unless a later enacted statute, which is chaptered before July 1, 1989, deletes or extends that date.

SEC. 2. Section 14078.6 is added to the Welfare and Institutions Code, to read:

14078.6. (a) The director shall contract with either the University of California, a state college or university, or a private dental school for one three-year pilot project. In making a determination of the contractor for the pilot project, the director shall select an entity which operates a dental training program and has a demonstrated record of addressing preventive dental care needs.

(b) The purpose of this pilot project is to provide necessary, direct care for persons, including, but not limited to, the following:

(1) Supervise oral hygiene and other preventive dental procedures, such as the use of sealants when appropriate.

(2) Identify dental diseases and make recommendations for interventions to eliminate or ameliorate the effects of diseases.

(3) Provide information and referral on appropriate dental care.

(4) Provide information on the nature and the extent of the special needs of clients and gather data on costs for dental services to ensure that there are appropriate rates of reimbursement to encourage professional personnel to accept Medi-Cal payment.

(5) Establish procedures for effective client tracking and followup for persons receiving preventive care.

(c) The contractor selected to implement this pilot project shall also develop and implement a commmunity-based dental health education model to be used by dental personnel for the training of persons with developmental disabilities, their parents, residential care providers, regional center care management personnel, and dental practitioners.

(d) The director shall report to the Legislature by March 15, 1989, on the results of the pilot project's activities and make recommendations for change in the Medi-Cal program in order to ensure statewide, uniform availability of appropriate and cost-effective dental health services.

(e) This section shall remain in effect only until July 1, 1989, and as of that date is repealed, unless a later enacted statute, which is chaptered before July 1, 1989, deletes or extends that date.

SEC. 3. The sum of two hundred seventy-five thousand dollars ($275,000) is hereby appropriated from the General Fund to the Director of Health Services for the purposes of this act, of which a minimum of two hundred thousand dollars ($200,000) shall be

expended on the pilot project.

CHAPTER 926

An act to add Sections 454.8 and 1005.5 to the Public Utilities Code, relating to public utilities.

[Approved by Governor September 23, 1985 Filed with Secretary of State September 24, 1985]

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

SECTION 1. Section 454.8 is added to the Public Utilities Code, to read:

454.8. In any decision establishing rates for an electrical or gas corporation reflecting the reasonable and prudent costs of the new construction of any addition to or extension of the corporation's plant, when the commission has found and determined that the addition or extension is used and useful, the commission shall consider a method for the recovery of these costs which would be constant in real economic terms over the useful life of the facilities, so that ratepayers in a given year will not pay for the benefits received in other years.

SEC. 2. Section 1005.5 is added to the Public Utilities Code, to read:

1005.5. (a) Whenever the commission issues to an electrical or gas corporation a certificate authorizing the new construction of any addition to or extension of the corporation's plant estimated to cost greater than fifty million dollars ($50,000,000), the commission shall specify in the certificate a maximum cost determined to be reasonable and prudent for the facility. The commission shall determine the maximum cost using an estimate of the anticipated construction cost, taking into consideration the design of the project, the expected duration of construction, an estimate of the effects of economic inflation, and any known engineering difficulties associated with the project.

(b) After the certificate has been issued, the corporation may apply to the commission for an increase in the maximum cost specified in the certificate. The commission may authorize an increase in the specified maximum cost if it finds and determines that the cost has in fact increased and that the present or future public convenience and necessity require construction of the project at the increased cost; otherwise, it shall deny the application.

(c) After construction has commenced, the corporation may apply to the commission for authorization to discontinue construction and recover those costs which were reasonably and prudently incurred. After a showing to the satisfaction of the commission that the present or future public convenience and

necessity no longer require the completion of construction of the project, the commission may authorize discontinuance of construction and the recovery of those construction costs which were reasonable and prudent.

(d) In any decision establishing rates for an electrical or gas corporation reflecting the reasonable and prudent costs of the new construction of any addition to or extension of the corporation's plant, when the commission has found and determined that the addition or extension is used and useful, the commission shall consider whether or not the actual costs of construction are within the maximum cost specified by the commission.

CHAPTER 927

An act to amend Item 3790-101-036 of Section 2.00 of Chapter 111 of the Statutes of 1985, relating to museums, and making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 23, 1985 Filed with Secretary of State September 24, 1985]

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

SECTION 1. The Legislature finds and declares that Japanese Americans have made major contributions to the social, cultural, and economic greatness of the state. The Legislature further finds and declares that the Japanese American National Museum, conceived as a depository for documentation and preservation of artifacts which record the Japanese American experience in America, would provide valuable and necessary educational information to the public.

SEC. 2. Item 3790-101-036 of Section 2.00 of Chapter 111 of the Statutes of 1985 is amended to read:

3790-101-036—For local assistance, Department of Parks and Recreation, payable from the Special Account for Capital Outlay		2,750,000
Schedule:		
(1) East Bay Regional Park District-Briones Regional Park, Pereira Property	2,000,000	
(2) City of Los Angeles for the Japanese American National Museum Foundation, Japanese American Museum	750,000	
Provisions:		
1. No funds appropriated in category (2) of this		

item for the Japanese American Museum project shall be encumbered unless and until the City of Los Angeles encumbers at least $1,000,000 of nonstate funds for the purposes of this project.

2. No funds appropriated in category (2) of this item for the Japanese American Museum project shall be encumbered unless and until the Director of Parks and Recreation certifies, based on competent estimates, that sufficient nonstate funds are available, in combination with this appropriation, to complete the project, including all costs of design and reconstruction of the building and design, construction, and installation of the exhibits.
3. No additional state capital outlay funds, other than the funds appropriated in category (2), or local assistance funds, or state operations funds shall be appropriated for purposes of this project.
4. The Japanese American National Museum Foundation shall report to the Legislature by January 1, 1987, on the status of the Japanese American Museum project and the utilization of the state funds appropriated in category (2) of this item.

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 create a Japanese American National Museum as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 928

An act to repeal Section 19573 of the Government Code, relating to civil service employees.

[Approved by Governor September 23, 1985 Filed with Secretary of State September 24, 1985]

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

SECTION 1. It is the intent of the Legislature, in repealing Section 19573 of the Government Code, to eliminate national origin or possession of dual citizenship as a cause for disciplinary action

against state employees. Section 19573 allows for the dismissal of any state employee in wartime solely because the employee possesses dual citizenship and has been used only once—to terminate the employment of all state employees of Japanese ancestry, regardless of citizenship, during World War II.

The right of the state to demand loyalty of its employees is adequately expressed in provisions of the Government Code, specifically Sections 1023, 1027, 3101, through 3109, 18150 through 18158, 18200, and 19572. These sections do not possess the discriminatory overtones of Section 19573. The repeal of Section 19573 does not affect other code sections which authorize the state to take disciplinary action against an employee for reasons of disloyalty to the United States, failure to take an oath of allegiance, or disruption of United States war efforts or defense preparations.

The Legislature hereby finds that the repeal of this section is necessary due to the discriminatory climate in which it was enacted and the civil rights violations which resulted from the method in which it was imposed.

SEC. 2. Section 19573 of the Government Code is repealed.

CHAPTER 929

An act to amend Sections 286, 288a, 289, and 290 of the Penal Code, relating to crime.

[Approved by Governor September 23, 1985 Filed with Secretary of State September 25, 1985]

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

SECTION 1. 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 she, 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) Except as provided in subdivision (h), any person who commits an act of sodomy, and the victim is at the time incapable, because of a mental disorder or developmental or 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 for three, six, or eight years. 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 disorder or developmental or physical disability rendered the alleged victim incapable of giving consent.

(h) Any person who commits an act of sodomy, and the victim is at the time incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act, and both the defendant and the victim are at the time confined in a state hospital for the care and treatment of the mentally disordered or in any other public or private facility for the care and treatment of the mentally disordered approved by a county mental health director, 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 I (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 legal consent.

SEC. 2. 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 she, 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 or where the victim is at the time incapable, because of a mental disorder or developmental or 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 for five, seven, or nine years. Notwithstanding the appointment of a conservator with respect to the victim 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 disorder or developmental or physical disability rendered the alleged victim incapable of giving legal consent.

(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) Except as provided in subdivision (h), any person who commits an act of oral copulation, and the victim is at the time incapable, because of a mental disorder or developmental or 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 for three, six, or eight years. 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 disorder or developmental or physical disability rendered the alleged victim incapable of giving consent.

(h) Any person who commits an act of oral copulation, and the victim is at the time incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act, and both the defendant and the victim are at the time confined in a state hospital for the care and treatment of the mentally disordered or in any other public or private facility for the care and treatment of the mentally disordered approved by a county mental health director, 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 I (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 legal consent.

SEC. 3. Section 289 of the Penal Code is amended to read:

289. (a) Every person who causes the penetration, however slight, of the genital or anal openings of another person, by any foreign object, substance, instrument, or device when the act is accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person for the purpose of sexual arousal, gratification, or abuse, shall be punished by imprisonment in the state prison for three, six, or eight years.

(b) Except as provided in subdivision (c), every person who causes the penetration, however slight, of the genital or anal openings of another person by any foreign object, substance, instrument, or device and the victim is at the time incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act for the purpose of sexual arousal, gratification, or abuse, shall be punished by imprisonment in the state prison, for three, six, or eight years. Notwithstanding the appointment of a conservator with respect to the victim 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 disorder or developmental or physical disability rendered the alleged victim incapable of giving legal consent.

(c) Every person who causes the penetration, however slight, of the genital or anal openings of another person by any foreign object, substance, instrument, or device and the victim is at the time incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act, and both the

defendant and the victim are at the time confined in a state hospital for the care and treatment of the mentally disordered or in any other public or private facility for the care and treatment of the mentally disordered approved by a county mental health director, shall be punished by imprisonment in 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 legal consent.

(d) As used in this section, "foreign object, substance, instrument, or device" shall include any part of the body, except a sexual organ.

SEC. 4. Section 290 of the Penal Code is amended to read:

290. (a) Any person who, since the first day of July, 1944, has been or is hereafter convicted in this state of the offense of assault with intent to commit rape or sodomy under Section 220, or of any offense defined in subdivision (1), (2), (3), (4), and (6) of Section 261, or of any offense defined in Section 264.1, 266, 267, 285, 286, 288, 288a, 289, 647a, subdivision (d) of Section 647, or subdivision 1 or 2 of Section 314, or of any offense involving lewd and lascivious conduct under Section 272; or any person who since that date has been or is hereafter convicted of the attempt to commit any of the above-mentioned offenses; or any person who since that date or at any time hereafter is discharged or paroled from a penal institution where he or she was confined because of the commission or attempt to commit one of the above-mentioned offenses; or any person who since that date or at any time hereafter is determined to be a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code; or any person who has been since that date or is hereafter convicted in any other state of any offense which, if committed or attempted in this state, would have been punishable as one or more of the above-mentioned offenses, shall, within 30 days after the effective date of this section or within 14 days of coming into any county or city, or city and county in which he or she temporarily resides or is domiciled for that length of time register with the chief of police of the city in which he or she is domiciled or the sheriff of the county if he or she is domiciled in an unincorporated area.

(b) Any person who, after the first day of August, 1950, is discharged or paroled from a jail, prison, school, road camp, or other institution where he or she was confined because of the commission or attempt to commit one of the above-mentioned offenses or is released from a state hospital to which he or she was committed as a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code shall, prior to discharge, parole, or release, be informed of his or her duty to register under this section by the

official in charge of the place of confinement or hospital and the official shall require the person to read and sign such form as may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to the person. The official in charge of the place of confinement or hospital shall obtain the address where the person expects to reside upon his or her discharge, parole, or release and shall report the address to the Department of Justice. The official in charge of the place of confinement or hospital shall give one copy of the form to the person, and shall send two or, if the conviction which makes the person subject to this section is a felony conviction, shall, not later than 45 days prior to the scheduled release of the person, send four copies to the Department of Justice, which, in turn, shall forward one copy to the appropriate law enforcement agency having local jurisdiction where the person expects to reside upon discharge, parole, or release, and, if the conviction which makes the person subject to this section is a felony conviction, one copy to the prosecuting agency which prosecuted the person and one copy to the court where the person was prosecuted. All such forms shall, if the conviction which makes the person subject to this section is a felony conviction, be transmitted within such times as to be received by the local law enforcement agency, prosecuting agency, and court 30 days prior to the discharge, parole, or release of the person.

(c) Any person who after the first day of August, 1950, is convicted in this state of the commission or attempt to commit any of the above-mentioned offenses and who is released on probation or discharged upon payment of a fine shall, prior to release or discharge, be informed of the duty to register under this section by the court in which the person has been convicted and the court shall require the person to read and sign such form as may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to him or her. The court shall obtain the address where the person expects to reside upon release or discharge and shall report within three days the address to the Department of Justice. The court shall give one copy of the form to the person, and shall send two copies to the Department of Justice, which, in turn, shall forward one copy to the appropriate law enforcement agency having local jurisdiction where the person expects to reside upon his or her discharge, parole, or release.

(d) The registration shall consist of (a) a statement in writing signed by the person, giving such information as may be required by the Department of Justice, and (b) the fingerprints and photograph of the person. Within three days thereafter, the registering law enforcement agency shall forward the statement, fingerprints, and photograph to the Department of Justice.

(e) If any person required to register hereunder changes his or her residence address, the person shall inform, in writing within 10 days, the law enforcement agency with whom he or she last registered of the new address. The law enforcement agency shall,

within three days after receipt of this information, forward it to the Department of Justice. The Department of Justice shall forward appropriate registration data to the law enforcement agency having local jurisdiction of the new place of residence.

(f) Any person required to register under this section who violates any of the provisions thereof is guilty of a misdemeanor. Any person who has been convicted of assault with intent to commit rape, oral copulation, or sodomy, or of any violation of Section 261, 286, 288, 288a, or 289, and who is required to register under this section who shall willfully violate any of the provisions thereof is guilty of a misdemeanor and shall be sentenced to serve a term of not less than 90 days nor more than one year in the county jail. In no event does the court have the power to absolve a person who willfully violates this section from the obligation of spending at least 90 days of confinement in the county jail and of completing probation of at least one year.

(g) Whenever any person is released on parole or probation and is required to register under this section but fails to do so within the time prescribed, the Board of Prison Terms, the Youth Authority, or the court, as the case may be, shall order the parole or probation of the person revoked.

(h) The statements, photographs, and fingerprints herein required shall not be open to inspection by the public or by any person other than a regularly employed peace or other law enforcement officer.

(i) In any case in which a person who would be required to register pursuant to this section for a felony conviction is to be temporarily sent outside the institution where he or she is confined on any assignment within a city or county including fire fighting, disaster control, or of whatever nature the assignment may be, the local law enforcement agency having jurisdiction over the place or places where the assignment shall occur shall be notified within a reasonable time prior to removal from the institution. This provision does not apply to any person temporarily released under guard from the institution where he is confined.

(j) As used in this section, "mentally disordered sex offender" includes any person who has been determined to be a sexual psychopath or a mentally disordered sex offender under any provision which, on or before January 1, 1976, was contained in Division 6 (commencing with Section 6000) of the Welfare and Institutions Code.

(k) Every person who, prior to January 1, 1985, is required to register under this section, shall be notified, whenever he or she next reregisters, of the reduction of the registration period from 30 to 14 days. This notice shall be provided in writing by the registering agency. Failure to receive this notification shall be a defense against the penalties prescribed by subdivision (f) if the person did register within 30 days.

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. Reimbursement to local agencies and school districts for costs mandated by the state pursuant to this act shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code and, if the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), shall be made from the State Mandates Claims Fund.

SEC. 7. No reimbursement is required by this act pursuant to 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 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 930

An act relating to prisons, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 24, 1985. Filed with Secretary of State September 25, 1985.]

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

SECTION 1. (a) Notwithstanding any other provision of law, the Department of Corrections is authorized to pay local public entities, in order to obtain essential sewage and water services for the California State Prison in San Diego County, to be known as the Richard J. Donovan Correctional Facility at Rock Mountain, authorized in Section 13 of Chapter 540 of the Statutes of 1981, as amended by Section 7 of Chapter 958 of the Statutes of 1983, as follows:

(1) An amount not to exceed two million five hundred thousand dollars ($2,500,000) to the City of San Diego as the full payment for reasonable, customary, and nondiscriminatory capacity fees for existing sewage facilities of the San Diego Metropolitan Sewer System.

(2) Reasonable, customary, and nondiscriminatory capacity fees to the City of San Diego for the use of the City of Chula Vista and Montgomery Sanitation District's Date/Faivre Trunk Sewer. The fees shall be amortized over a period of years to be agreed upon by the state and the district.

(3) Reasonable, customary, and nondiscriminatory capacity fees to the Otay Water District for existing water facilities. The fees shall be amortized over a period of years to be agreed upon by the state

and the district.

(b) The Legislature and the people of the State of California have determined that immediate expansion of the existing state adult prison system by the swiftest possible means is necessary to relieve that system from current severe overcrowding and to maintain the public safety and security. Development of the proposed Richard J. Donovan Correctional Facility at Rock Mountain is one major component in the immediate expansion which is essential. This prison cannot be occupied without timely provision of sewer and water service, which cannot be assured without the payments authorized in this section. Further delay in the expansion of the prison system, including specifically the Richard J. Donovan Correctional Facility at Rock Mountain, may well lead to increased violence, and may expose the state, its officers, and employees to civil and contempt liability. Therefore, the payments authorized in this section are required to accomplish essential and substantial state purposes.

SEC. 2. (a) Notwithstanding any other provision of law, the Department of Corrections is authorized to contract for a study, not to exceed a cost of fifty thousand dollars ($50,000), to determine the technical feasibility of utilizing subsurface percolation as an alternate method of sewage treatment and water reclamation for the Richard J. Donovan Correctional Facility at Rock Mountain.

(b) The subsurface percolation method of sewage treatment and water reclamation shall not be considered to be an alternative, pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code), for purposes of compliance with that act, as it may relate to any environmental impact report or negative declaration filed prior to the effective date of this act.

(c) The Department of Corrections shall utilize water reclamation for the Richard J. Donovan Correctional Facility at Rock Mountain within five years of the effective date of this section, if the Director of the Department of Corrections finds that the method is feasible.

SEC. 3. If a water reclamation system is developed and utilized in accordance with Section 2, and the Department of Corrections relinquishes its capacity rights in the San Diego sewer system, the capacity fee paid to the City of San Diego, pursuant to paragraph (1) of subdivision (a) of Section 1, shall be refunded to the Department of Corrections by the City of San Diego. In that event, the City of San Diego and the Department of Corrections, if appropriate, shall negotiate a standby fee arrangement for emergency sewer services.

SEC. 4. The sum of two million five hundred fifty thousand dollars ($2,550,000) is appropriated from the New Prison Construction Fund to the Department of Corrections, as follows:

(a) The sum of two million five hundred thousand dollars ($2,500,000) is appropriated from the New Prison Construction Fund to the Department of Corrections for capacity fees authorized by

paragraph (1) of subdivision (a) of Section 1 of this act.

(b) The sum of fifty thousand dollars ($50,000) is appropriated from the New Prison Construction Fund to the Department of Corrections for the study authorized by subdivision (a) of Section 2 of this act.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

First, those set forth in subdivision (b) of Section 1 of this act. Second, the state prisons are presently operating at over 150 percent 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 to maintain public safety and security.

CHAPTER 931

An act to amend Section 15819.6 of the Government Code, to add Sections 7011 and 7013 to the Penal Code, to add Sections 21080.02 and 21080.03 to the Public Resources Code, and to amend Section 1 of Chapter 957 of the Statutes of 1983 and Section 9 of Chapter 958 of the Statutes of 1983, relating to prisons, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 24, 1985 Filed with Secretary of State September 25, 1985]

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

SECTION 1. Section 15819.6 of the Government Code is amended to read:

15819.6. Notwithstanding Section 15818 and the first paragraph of Section 15830, the revenues, rentals, and receipts from all public buildings authorized under this chapter may be pledged to the payment of the principal of, premium if any, and interest on the revenue bonds or certificates of participation issued to finance the acquisition and construction of all such buildings. The revenue bonds or certificates of participation issued to finance these public buildings may be equally secured by a lien upon the revenues, rentals, and receipts without priority for number, date of revenue bonds or certificates of participation, of sale, of execution, or of delivery pursuant to this part.

SEC. 2. Section 7011 is added to the Penal Code, to read:

7011. (a) The Department of Corrections shall submit to the Joint Legislative Prison Committee, the Kings County Board of Supervisors, the Corcoran City Council, and the State Public Works

Board, at least 30 days prior to the acquisition of real property for a prison facility to be located in the vicinity of Corcoran in Kings County, an environmental assessment study, which shall include a discussion of impacts and mitigation measures, if necessary, for the following areas:

(1) Geology.

(2) Hydrology—groundwater.

(3) Water quality—surface waters.

(4) Plant and animal life—endangered and rare species.

(5) Air quality.

(6) Noise.

(7) Light and glare.

(8) Transportation and circulation.

(9) Utilities—gas, electricity, telephone, solid waste, sewage disposal, and drinking water.

(10) Archaeology.

(11) Energy.

(b) The factors set forth in subdivision (a) shall be assessed only as they relate to the direct impacts caused off the site as a result of the construction, operation, and maintenance of the prison facility upon completion and occupancy.

(c) Notwithstanding any other provisions of law, other than Section 7003 and those provisions of the Government Code that require the approval of the State Public Works Board, the Department of Finance, or the Director of Finance for capital outlay projects, the approval of the study by the State Public Works Board is the only approval required for the acquisition of real property, planning, design, and construction of the prison facility and the operation and maintenance of the facility. The State Public Works Board shall not act on the study until it receives a recommendation from the Joint Legislative Prison Committee. Approval of the study by the State Public Works Board shall be final and binding on all parties.

(d) If the committee does not, by a majority vote of the committee membership, take any action on the study within 30 days after submittal, that inaction shall be deemed to be a recommendation of concurrence for the purposes of this section.

(e) Prior to providing a recommendation to the State Public Works Board, but within the 30-day period specified in subdivision (d), the committee shall hold a public hearing in Corcoran. Notice of the hearing shall be published in a newspaper of general circulation in, or adjacent to, Corcoran. The notice shall be at least one-quarter page in size. The Corcoran City Council and the Kings County Board of Supervisors shall be invited to participate in the hearing.

SEC. 2.5. Section 7013 is added to the Penal Code, to read:

7013. The Department of Corrections shall contract, or make a good-faith effort to contract, with the Department of Water Resources or the Bureau of Reclamation, or both, to secure a water

supply for the prison at Avenal.

SEC. 3. Section 21080.02 is added to the Public Resources Code, to read:

21080.02. This division shall not apply to any activity cr approval necessary for or incidental to planning, design, site acquisition, construction, operation, or maintenance of the new prison facility at or in the vicinity of Corcoran in Kings County as authorized by the act that enacted this section.

SEC. 4. Section 21080.03 is added to the Public Resources Code, to read:

21080.03. This division shall not apply to any activity or approval necessary for or incidental to the location, development, construction, operation, or maintenance of the prison in the County of Kings, authorized by Section 9 of Chapter 958 of the Statutes of 1983, as amended, and of the prison in the County of Amador (Ione), authorized by Chapter 957 of the Statutes of 1983, as amended.

SEC. 5. Section 9 of Chapter 958 of the Statutes of 1983 is amended to read:

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 on Section 34, Township 22 South, Range 17 East, Mount Diablo Base and Meridian in Kings County. The Department of Corrections is authorized to acquire or lease, as it deems appropriate, as many as two additional sections of land for the location of facilities and activities incidental to the prison. The department shall not pump or use groundwater from the basin and aquifer that underlies Section 34, from any aquifer in the Kettleman Hills basin, or any additional sections acquired or leased for that prison.

SEC. 6. Notwithstanding any other provisions of law, the Department of Corrections is authorized to construct and establish a 3,000-bed work-based medium and maximum security institution, to include a service facility of lesser security, at or in the vicinity of Corcoran in Kings County.

SEC. 7. Section 1 of Chapter 957 of the Statutes of 1983 is amended to read:

Section 1. (a) Notwithstanding any other provision of law, the Department of Corrections is authorized to:

(1) Construct and establish minimum and medium security work-based prisons with a capacity of 2,400 inmates in the following manner:

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

(ii) Each such facility shall be functionally separate from other existing or planned prison facilities and shall consist of at least two major living units, each containing no more than 600 beds.

(2) Construct and establish one 1,700-bed medium security prison, including a service facility of lesser security with a capacity not in excess of 200 inmates, at a site partially owned by the state at Ione

known as Mule Creek. The prison at or in the general vicinity of Ione shall not be exempt from charges or special assessments for future costs to operate, maintain, repair, replace, and improve the Amador Water System.

(b) 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.

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

(d) 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. 8. For purposes of interpreting the Budget Act of 1985, enactment of this measure is considered resolution of the Sagasar v. Director of Corrections suit.

SEC. 9. To carry on the provisions of this act, the sum of five million seven hundred fifty thousand dollars ($5,750,000) is appropriated as follows:

(a) There is hereby appropriated from the State Account for Capital Outlay to the Department of Corrections for capital outlay the sum of five million dollars ($5,000,000) for a 3,000-bed work-based medium and maximum security prison, at or in the vicinity of Corcoran in Kings County.

(b) There is hereby appropriated from the General Fund to the Department of Corrections, seven hundred fifty thousand dollars ($750,000) for allocation to any county wherein two or more state prisons, with a total design capacity of 5,900 or more beds, are being constructed.

Provisions:

(1) Funds appropriated by subdivision (a) shall be available for purposes as necessary, of site acquisition, site studies and suitability reports, Environmental Assessment Studies, master planning, architectural programming, schematics, preliminary plans, working drawings, construction, long lead and equipment items. The Legislature recognizes that additional appropriations will be required for the purpose of this project.

(2) None of the moneys appropriated in subdivision (b) shall be allocated unless and until the Director of Corrections determines that the two new prisons are likely to have an impact on courtroom use.

(3) Funds allocated from subdivision (b) shall be available only for the construction, alteration, or rehabilitation of courtrooms and related facilities.

SEC. 10. If any provision of this act or the application thereof to any person or circumstances is held invalid, this invalidity shall not affect any other provisions or applications of the act which can be given effect without the invalid provisions or applications and, to this end, the provisions of this act are severable.

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:

The Legislature and the people of the State of California have determined that immediate expansion of the existing state adult prison system by the swiftest and most expeditious possible means is necessary to relieve that system from current severe overcrowding, problems incident thereto, including inmate violence, and to maintain the public safety and security. The system is presently operating at over 150 percent of capacity and prison population is still increasing. Development of the proposed California State Prison, Kings County-Avenal, the proposed California State Prison, Amador County (Ione), and the proposed California State Prison, Kings County-Corcoran, are major components in the immediate expansion which are essential. These prisons cannot be developed, constructed, or placed in operation in time to assist in relieving the overcrowding, in maintaining public safety and security, or to comply with court orders unless this act takes effect immediately.

CHAPTER 932

An act to repeal and add Chapter 3.1 (commencing with Section 15819.1) of Part 10b of Division 3 of Title 2 of, and to add Section 15837.6 to, the Government Code, relating to prisons, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 24, 1985 Filed with Secretary of State September 25, 1985]

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

SECTION 1. Chapter 3.1 (commencing with Section 15819.1) of Part 10b of Division 3 of Title 2 of the Government Code is repealed.

SEC. 2. Chapter 3.1 (commencing with Section 15819.1) is added to Part 10b of Division 3 of Title 2 of the Government Code to read:

CHAPTER 3.1. LEASE-PURCHASE FINANCING OF PRISON CONSTRUCTION

15819.1. As used in this chapter:

(a) "Bonds" means revenue bonds, notes, or bond anticipation notes issued to finance the cost of prison facilities, interest during construction thereof, reserve funds, and costs of issuance of the bonds, as the board may determine.

(b) "Lease pledge" means the pledge of the board of moneys for payment under the prison facilities lease.

(c) "Lease-purchase financing" means the financing of prison facilities from the proceeds of the sale of bonds authorized by the board.

(d) "Lessor" means the lessor under any prison facilities lease and any trustee on behalf of the lessor.

(e) "Prison facilities lease" means any lease of a prison facility entered into by the Director of Corrections with the board pursuant to this chapter.

(f) "Prison facility" means real property, fixtures, furnishings, equipment, and related improvements for the following facilities:

(1) State prison-Amador County.

(2) Southern Maximum Security Complex.

15819.2. Without obtaining further authorization under Section 15808, the board may acquire, may obtain an option to purchase, and may engage in the construction of prison facilities at any site which by statutory authorization may be used, owned, or hereafter acquired by the Department of Corrections, but only at the request or with the consent of the Department of Corrections.

15819.3. The board may finance prison facilities using lease-purchase financing arrangements by the issuance of bonds pursuant to Chapter 5 (commencing with Section 15830). The construction and acquisition of prison facilities or the financing of prison facilities constitutes the construction of public buildings for the purposes of Chapter 5 (commencing with Section 15830). In addition to the cost of construction, the board may authorize any additional amounts necessary to pay the costs of financing, including, but not limited to, interest during construction of the project and a reasonably required reserve fund.

The total amount of bonds issued pursuant to this section shall not exceed three hundred million dollars ($300,000,000).

15819.4. (a) Lease-purchase financing shall not be sold by the Treasurer unless, at the time any notes or bond anticipation notes constituting the lease-purchase financing are so sold, they are rated in the highest short-term rating category by a nationally recognized rating service, at the time of sale or, at the time any bonds, other than notes or bond anticipation notes, constituting the lease-purchase financing are so sold, they are rated by a nationally recognized rating service no more than one full credit grade below the state general obligation bond rating at the time of the sale.

(b) Notwithstanding the provisions of subdivision (a), at least 30 days before a sale not meeting the requirements of subdivision (a), or not sooner than whatever lesser time both the Chairperson and Vice Chairperson of the Joint Legislative Budget Committee or their designees may in each instance determine, the Treasurer shall notify the Chairperson and Vice Chairperson of the Joint Legislative Budget Committee of the advantage to the state of proceeding with the sale.

(c) Upon compliance with subdivision (b), the Treasurer is authorized to proceed with the sale.

15819.5. Bonds authorized to be issued pursuant to this chapter shall be sold pursuant to Section 15832.

15819.6. Notwithstanding Section 15816, the public buildings financed by the board pursuant to this chapter shall be and remain under the jurisdiction and control of, and shall be operated and maintained by, the Department of Corrections. Construction of any prison facilities utilizing the financing methods authorized in this chapter shall be done on behalf of the board by the Department of Corrections. The Department of Corrections may contract with a construction manager and others for construction and other services related to the construction of prison facilities financed pursuant to this chapter.

15819.7. Amounts necessary to pay rent for the public buildings financed pursuant to this chapter and under and pursuant to a prison facilities lease are hereby appropriated without regard to fiscal year from the General Fund, but shall become available for expenditure only if the Department of Finance certifies to the Controller that the amount required to pay this rent has not been included in the Budget Act for that fiscal year for the support of the Department of Corrections.

15819.8. Forty-five days prior to marketing bonds authorized by this chapter, the Department of Corrections shall notify the chairpersons of the fiscal committees in each house of the Legislature, the Chairpersons of the Assembly Committee on Public Safety and the Senate Judiciary Committee, the Chairperson and the Vice Chairperson of the Joint Legislative Budget Committee, and the Chairperson of the Joint Legislative Prison Committee of the general parameters of the proposed sale, including the size and terms of the issue, the anticipated debt service requirements, and any other significant factors affecting the sale.

The Department of Corrections shall report to each of these persons on a quarterly basis following the sale of the bonds on the progress of any acquisition or construction financed by the sale and on the then current debt service requirements.

15819.9. The revenues, rentals, and receipts from all public buildings authorized to be financed under this chapter may be pledged for the payment of principal of, premium, if any, and interest on, the bonds issued to finance the acquisition and construction of all these public buildings. The bonds issued to finance these public buildings may be equally secured by a lien upon the revenues, rentals, and receipts without priority for number or the date of the bonds, their sale, execution, or delivery pursuant to this part.

15819.10. The board, as additional security for a prison facilities lease, may agree to pledge and assign all or any portion of any moneys as may be legally available from time to time, to secure payments of the prison facilities lease to a fiscal agent, the treasurer, or to a trustee in trust for the persons entitled thereto.

15819.11. In addition to any other powers granted by law, the

board may, for the purposes of this chapter, do any or all of the following:

(a) Obtain insurance against loss by fire or other hazards on public buildings, both during and after construction, and obtain insurance against loss of revenues from any causes whatsoever, for the protection of the holders of bonds.

(b) Issue notes and bond anticipation notes as provided in this part to obtain interim funds to pay the cost of public buildings, secure the payment of notes and bond anticipation notes and interest thereon as provided in this part, and provide for the security of notes and bond anticipation notes and the rights of the holders thereof.

The board may authorize the preparation of bid proposals for the construction of projects prior to obtaining interim financing. However, no contracts to be funded with proceeds from the sale of bonds shall be executed until interim financing is available to the board.

(c) Obtain and assign options to purchase prison facility sites authorized by the Legislature.

15819.12. A prison facilities lease may be for any term not to exceed 30 years and may contain other terms, covenants, and conditions as the board may approve.

15819.13. An amount not to exceed the amount of unsold bonds which the board has by resolution authorized to be sold for the purposes of carrying out this chapter is hereby appropriated from the General Fund to the Director of Finance, who may direct that any portion of that amount shall be deposited into a special account in the Public Building Construction Fund, to be used for the construction of prison facilities to be financed pursuant to this chapter. Any amounts made available from the General Fund under this section to the board shall be repaid by the board to the General Fund from the proceeds received from the sale of bonds sold for the purpose of carrying out this chapter. These amounts shall be repaid to the General Fund with interest at the rate which the Treasurer certifies would have been earned on those amounts if invested in the Surplus Money Investment Fund.

15819.14. (a) There is in the State Treasury the New Prison Construction Revenue Fund, which is hereby created. Moneys derived from the lease-purchase financing of the Southern Maximum Security Complex prison facilities as authorized by this chapter shall be deposited in this fund. Proceeds of the sale of bonds deposited in the New Prison Construction Revenue Fund may be transferred by the board, upon the approval of the Director of Finance, to the 1984 Prison Construction Fund established by Section 7202 of the Penal Code. Moneys shall be withdrawn from the 1984 Prison Construction Fund in accordance with law for the purpose of carrying out the New Prison Construction Bond Act of 1984.

15819.15. This chapter shall be interpreted in a manner that will promote the security of the bond holders and the expeditious acquisition, construction, renovation, or improvement of

correctional facilities.

SEC. 3. Section 15837.6 is added to the Government Code, to read:

15837.6. The provisions of Section 10295 and Sections 10335 to 10382, inclusive, of the Public Contract Code shall not apply to agreements entered into by the board or Treasurer in connection with the obtaining of financing.

SEC. 3.5. Notwithstanding Section 4527 and 4528 of the Government Code, the Department of Corrections may amend existing contracts with firms providing architectural or engineering services, or both, to perform all required architectural or engineering services for the new prison to be located at or in the vicinity of Corcoran in Kings County.

SEC. 4. To carry out the provisions of this act the sum of six million dollars ($6,000,000) is hereby appropriated from the General Fund to the Department of Corrections for payment of the first six months rental payment under the prison facilities lease for the Southern Maximum Security Complex authorized by Section 2 of this act.

Any debt service reserve established by the board pursuant to Chapter 3.1 (commencing with Section 15819.1) of Part 10b of Division 3 Title 2 of the Government Code shall be invested in the Surplus Money Investment Fund or in any other investment as the Treasurer determines. Earnings derived from this investment shall, notwithstanding any other provision of law, be applied to the principal of and interest on the bonds.

SEC. 5. Notwithstanding any other provision of law, on the effective date of this act fifty million dollars ($50,000,000) of the unencumbered balance of the following appropriations shall revert to the unappropriated surplus of the fund from which derived, in accordance with the following schedule:

(a) New Prison Construction Fund: from the appropriation in subdivision (e) of Section 10 of Chapter 958 of the Statutes of 1983, as amended by Chapter 1743 of the Statutes of 1984 and as reappropriated by Chapter 111 of the Statutes of 1985 (Item 5240-491), for one 1,200-Bed (Levels I and II) facility: Studies, Preliminary Plans, Working Drawings, Site Acquisition, and Construction	$32,404,000
(b) 1984 Prison Construction Fund: from the appropriation in Chapter 258 of the Statutes of 1984 (Item 5240-311-724):	
(1) 61.01.021-California State Prison, Amador-1,200 Bed Level I/II Facility-Total Facility-Equipment.....	$ 3,800,000
(2) As reappropriated by Chapter 111 of the Statutes of 1985, (Item 5240-491): 61.18.015-Cali-	

fornia State Prison, Amador-1,200 Level I/II bed facility-Additional Funding, Offsite Development and Utilities, Preliminary Plans, Working Drawings, and Construction	$13,796,000

SEC. 6. Notwithstanding Section 13340 of the Government Code, funds derived from the financing methods authorized by Section 2 of this act for the California State Prison, Amador County, and deposited in the State Treasury are hereby continuously appropriated to the State Public Works Board on behalf of the Department of Corrections for the purpose of acquiring and constructing the prison facilities so financed.

Funds appropriated by this section shall be available as necessary for site acquisition, site studies and suitability reports, environmental planning, architectural programming, schematics, preliminary plans, working drawings, construction, long lead and equipment items.

The State Public Works Board may authorize the augmentation of the cost of the construction of the projects set forth in this section pursuant to the board's authority under Section 13332.11 of the Government Code.

SEC. 7. There is hereby appropriated from the 1984 Prison Construction Fund to the Department of Corrections the sum of eighty-eight million dollars ($88,000,000) for allocation in accordance with the following schedule:

(a) For a 3,000-bed facility in the vicinity of Avenal, Kings County	$67,000,000
(b) For the planning and construction of a 3,000-bed facility in the vicinity of Corcoran, Kings County	$21,000,000

Moneys appropriated by this section shall be available as necessary for site acquisition, site studies and suitability reports, environmental studies, master planning, architectural programming, schematics, preliminary plans, working drawings, construction, long lead, and equipment items.

SEC. 8. There is hereby appropriated from the New Prison Construction Fund to the Department of Corrections, the sum of two million five hundred thousand dollars ($2,500,000) for three 500-bed medium security prisons and a service facility in Riverside County.

Funds appropriated by this section shall be available as necessary for site acquisition, site studies and suitability reports, environmental studies, master planning, architectural programming, schematics, preliminary plans, working drawings, construction, long lead, and equipment items.

SEC. 9. There is hereby appropriated from the General Fund to the Department of Corrections the sum of six hundred fifty thousand dollars ($650,000) to be allocated in accordance with the following schedule:

(a) For a site suitability study for a prison in the vicinity of Yuba City and Marysville $200,000
(b) For allocation to counties to mitigate the impact of new prisons on local governments $450,000

SEC. 10. The sum of thirty-three million dollars ($33,000,000) is hereby appropriated from the New Prison Construction Fund to the Department of Corrections for preliminary plans, working drawings, and construction of a California State Prison at Avenal, Kings County consisting of one 3,000-bed facility.

Funds appropriated by this section shall be available as necessary for site acquisition, site studies and suitability reports, environmental studies, master planning, architectural programming, schematics, preliminary plans, working drawings, construction, long lead, and equipment items.

SEC. 11. The sum of seventeen million dollars ($17,000,000) is hereby appropriated from the 1984 Prison Construction Fund to the Department of Corrections for preliminary plans, working drawings, and construction of a California state prison at Avenal, Kings County consisting of one 3,000-bed facility.

Funds appropriated by this section shall be available as necessary for site acquisition, site studies and suitability reports, environmental studies, master planning, architectural programming, schematics, preliminary plans, working drawings, construction, long lead, and equipment items.

SEC. 12. The funds appropriated in SB 253 of the 1985–86 Regular Session for the connection of new sewage treatment plant capacity at the California Rehabilitation Center-Norco, and the funds appropriated in Item 5240-301-724(40) of Chapter 258 of the Statutes of 1984, shall be allocated to fund a contract with the Santa Ana Watershed Project Authority to provide for the construction of a sewer connection line from the California Rehabilitation Center to the Santa Ana River interceptor line.

SEC. 13. The funds allocated in SB 253 of the 1985–86 Regular Session for the purpose of the purchase of camp trailers or modular units shall be utilized to reimburse the new camps projects specified in Chapter 326 of the Statutes of 1982 (Item 5240-301-723(14)), as reappropriated by Chapter 111 of the Statutes 1985 (Item 5240-490) for the cost of the modular units to be utilized for emergency modifications at the California Rehabilitation Center. These moneys shall be utilized for the purpose of the original projects, including land acquisition, initial studies, schematics, preliminary plans, working drawings, and construction.

SEC. 14. If any one or more of the provisions contained in this act or the application thereof to any person or circumstances shall for any reason be held to be invalid, illegal, or unenforceable in any respect, then that provision or provisions shall be deemed severable from the remaining provisions contained in this act and that invalidity, illegality or unenforceability shall not affect any other provision

of this act, and this act shall be construed as if the invalid or illegal or unenforceable provision had never been contained herein. The Legislature hereby declares that it would have adopted this act and each and every other section, paragraph, sentence, clause or phrase hereof and authorized the issuance of the bonds pursuant to this act regardless of whether any one or more sections, paragraphs, sentences, clauses or phrases of this act may be held illegal, invalid, or unenforceable.

SEC. 15. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

The state's prison system is currently overcrowded and overpopulated to the point that California faces a public safety crisis. The prison population has increased during the past two and one-half years at an average rate of 100 inmates each week. During much of 1985, the increase has averaged an additional 170 inmates per week. Most of these inmates were sent to prison because they committed violent crimes. The courts have determined that various conditions which are incidents of overcrowding must be corrected. The Legislature and the people of California have determined that immediate expansion of the prison system by the swiftest possible means is necessary to relieve the system from current and anticipated overcrowding and to maintain the public safety and security. The provisions included in this act are essential to permit the state to deal with this immediate and current crisis.

CHAPTER 933

An act to amend, renumber, and repeal Section 7004 of, to add Sections 7008 and 7012 to, and to add and repeal Section 2048.7 of, the Penal Code, to add Sections 10108.5 and 10108.6 to the Public Contract Code, to add Section 21080.07 to the Public Resources Code, and to amend Section 9 of Assembly Bill No. 2251, relating to prisoners, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 24, 1985 Filed with Secretary of State September 25, 1985]

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

SECTION 1. Section 2048.7 is added to the Penal Code, to read:

2048.7. Notwithstanding other provisions of the law, the Director of Corrections shall have the authority to modify the percentage of the inmate population of the Southern Maximum Security Complex to be employed by the Prison Industry Authority, or to participate in vocational training commensurate with security requirements in

relation to the type of inmates housed therein, provided that the percentage of the inmate population to be employed by the Prison Industry Authority or to participate in vocational training shall be no less than 60 percent of the inmates in the general population. Authority is also vested in the director to utilize up to 50 percent of the cells of the facility to house special cases. The director may also choose to double occupy each cell if systemwide overcrowding demands that measure.

The Director of Corrections may implement the provisions of this section only if the encumbrance of those funds is authorized by the Department of Finance, not sooner than 30 days after notification in writing of the necessity therefor, to the chairman of the committee in each house which considers appropriations and the Chairman of the Joint Legislative Budget Committee.

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. 1.5. Section 7004 (as added by Chapter 958 of the Statutes of 1983) of the Penal Code is amended and renumbered to read:

7007. (a) The Legislature hereby finds and declares that due to the lack of capacity for new inmates in the state prison system, the construction of new prison facilities is of utmost importance to the public safety and well-being. The Legislature further finds and declares that it is in the public's interest to ensure that prisons are planned, designed, and constructed in a manner which is consistent with the California Environmental Quality Act and which minimizes environmental and other impacts upon the communities in which they are located. It is the intent of the Legislature that expeditious planning, construction, and operation of new prisons shall be achieved by so-called "fast-tracking" of the environmental review process and by acceleration of any actions or proceedings brought pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code, as provided in this section.

(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, 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.

(c) 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.

(d) No action may be brought pursuant to Section 21167 of the Public Resources Code unless the alleged grounds for noncompliance with the provisions of Division 13 (commencing with Section 21000) of the Public Resources Code were presented to the public agency orally or in writing by any person.

(e) No person shall maintain an action or proceeding unless that person objected to the project orally or in writing.

(f) Subdivisions (d) and (e) do not apply where there was no public hearing or other opportunity for the members of the public to raise objections prior to the approval of the prison project or when the public agency failed to give the notice required by law.

(g) In any action or proceeding involving prisons authorized by the Legislature alleging noncompliance with Division 13 (commencing with Section 21000) of the Public Resources Code, the petitioner shall request a hearing within 45 days of filing the petition or otherwise be subject to dismissal on the court's own motion or on the motion of any party interested therein.

(h) In any action brought pursuant to Section 21167 of the Public Resources Code involving prisons authorized by the Legislature, including the hearing of any such action on appeal from the decision of a lower court, all courts where such actions are or may hereafter be pending, shall give the actions preference over all other civil actions, in the matter of setting the same for hearing or trial, and in hearing the same, to the end that all such actions shall be quickly heard and determined.

(i) If an action brought pursuant to Section 21167 of the Public Resources Code involving prisons authorized by the Legislature is appealed, at the completion of the filing of briefs, the appellant shall notify the court of completion of the filing of briefs, whereupon the clerk of the reviewing court shall set the appeal for hearing on the first available calendar date.

(j) The filing of an action pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code involving prisons authorized by the Legislature shall not stop activities such as the acquisition of a site for a prison, the planning and construction of a prison, provided that no temporary restraining order, preliminary injunction, permanent injunction, or any other court order mandating cessation of the activity exits.

(k) The Legislature finds and declares that the enactment of this section is intended for the express purpose of expediting new prison construction, and that the procedures provided for in this section shall be utilized for this purpose.

(*l*) This section shall apply only to the expansion beds authorized in Section 4 of the act enacted in the 1985 portion of the 1985–86 Regular Session that amended and renumbered this section.

(m) This section shall remain in effect until January 1, 1988, unless a later enacted statute, which is enacted on or before January 1, 1988, deletes or extends that date.

SEC. 2. Section 7008 is added to the Penal Code, to read:

7008. (a) Division 13 (commencing with Section 21000) of the Public Resources Code shall not apply to the addition of 150 Level I and Level II beds authorized by Section 5 of this act at San Gabriel Canyon, provided that the department has made the following finding with respect to that facility:

(1) The increase in bed capacity, if any, shall not exceed, 5 percent of the total capacity of the facility prior to the increase.

(2) Any modifications made to existing structures are internal only. No external additions to existing structures or construction of new structures shall be done. Modular structures used exclusively for prisoner program activity shall be exempt from this requirement.

(3) Any modifications to a facility shall not result in a significant depletion in water, sewage, or other environmental resources. The department shall present substantial evidence that this requirement has been met in the findings described in subdivision (b).

(b) The department shall make findings that the requirements of subdivision (a) have been met, and shall make the findings available to the public.

SEC. 2.3. Section 7012 is added to the Penal Code, to read:

7012. (a) The Department of Corrections shall submit to the Joint Legislative Prison Committee, the State Public Works Board, the appropriate county board of supervisors, and the local city council at least 30 days prior to the acquisition of real property for prison facilities to be lcoated in Riverside and Del Norte Counties, an environmental assessment study, which shall include a discussion of impacts and mitigation measures, if necessary, for the following areas:

(1) Geology.

(2) Hydrology-groundwater.

(3) Water quality-surface waters.

(4) Plant and animal life-endangered and rare species.

(5) Air quality.

(6) Noise.

(7) Light and glare.

(8) Utilities-gas, electricity, telephone, solid waste, sewage disposal, and drinking water.

(9) Archaeology.

(10) Energy.

(b) The factors set forth in subdivision (a) shall be assessed only as they relate to the direct impacts caused off the site as a result of the construction, operation, and maintenance of the prison facility upon completion and occupancy.

(c) Notwithstanding any other provision of law, other than Section 7003, the approval of the study by the State Public Works Board is the only approval required for compliance with any applicable environmental requirements. The Public State Works Board shall not act on the study until it receives a recommendation from the Joint Legislative Prison Committee. Approval of the study by the State Public Works Board shall be final and binding on all

parties.

(d) If the committee does not, by a majority vote of the committee membership, take any action on the study within 30 days after submittal, that inaction shall be deemed to be a recommendation of concurrence for the purposes of this section.

(e) Prior to providing a recommendation to the State Public Works Board, but within the 30-day period specified in subdivision (d), the committee shall hold a public hearing in the community in the vicinity of the proposed site. Notice of the hearing shall be published in a newspaper of general circulation in, or adjacent to, that community. The notice shall be at least one-quarter page in size. The city council and the county board of supervisors shall be invited to participate in the hearing.

SEC. 2.5. Section 10108.5 is added to the Public Contract Code to read:

10108.5. (a) Contracts let by the Department of Corrections for the construction, erection, alteration, repair, or improvement of state prison facilities shall have as statewide participation goals 13 percent minority business enterprise and 3 percent women business enterprise exclusive of inmate day labor contracts. These goals shall apply to the overall dollar amount expended each year by the department for these purposes.

The term "minority business enterprise" means a business concern (1) which is at least 51 percent owned by one or more minorities, or in the case of a publicly owned business, at least 51 percent of the stock of which is owned by one or more minorities; and (2) whose management and daily business operations are controlled by one or more such individuals.

The term "women business enterprise" means a business concern (1) which is at least 51 percent owned by a woman or, in the case of a publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and (2) whose management and daily business operations are controlled by one or more such individuals.

The term "goal" means a numerically expressed objective which contractors are required to make efforts to achieve.

(b) In awarding contracts to the lowest responsible bidder, the department shall consider the responsiveness of a bidder to minority business enterprise and women business enterprise goals set forth in subdivision (a). If the bidder fails to show a good faith effort, the department shall award the contract to the next lowest responsive and responsible bidder.

(c) The department shall establish a method of monitoring adherence to the goals specified in subdivision (a).

(d) The department shall adopt rules and regulations for the purpose of implementing this section. Emergency regulations consistent with this section may be adopted without review and approval by the Office of Administrative Law if adopted within 90 days of the effective date of this act.

(e) Beginning July 1, 1986, and on July 1 of each year thereafter, the department shall report to the Governor and the Legislature on the level of participation by minority and women business enterprises in contracts as identified in subdivision (a). If the established goals are not being met, the department shall report the reasons for its inability to achieve the standards and identify remedial steps it shall take.

(f) In implementing this section, the department shall utilize existing resources such as the Office of Small and Minority Business, the Minority Business Development Agency, and the Small Business Administration.

SEC. 2.6. Section 10108.6 is added to the Public Contract Code, to read:

10108.6. The goals established in Section 10108.5 shall also apply to the overall dollar amount expended each year on contracts let by the California Department of Corrections for the purposes of services, maintenance and supplies excluding contracts for services for inmate medical needs.

SEC. 2.6. Section 21080.07 is added to the Public Resources Code, to read:

21080.07. This division shall not apply to any activity or approval necessary for or incidental to planning, design, site acquisition, construction, operation, or maintenance of the new prison facilities located in any of the following places:

(a) The County of Riverside.

(b) The County of Del Norte.

SEC. 2.7. Notwithstanding any other provision of law, modifications to existing facilities necessary to provide the expansion beds authorized in this act are required repairs to public service facilities necessary to maintain service and specific actions necessary to prevent and mitigate an emergency within the meaning of paragraphs (2) and (4) of subdivision (b) of Section 21080 of the Public Resources Code.

SEC. 2.8. Section 9 of Assembly Bill No. 2251 of the 1985–86 Regular Session is amended to read:

SEC. 9. To carry on the provisions of this act, the sum of five million seven hundred fifty thousand dollars ($5,750,000) is appropriated as follows:

(a) There is hereby appropriated from the Special Account for Capital Outlay to the Department of Corrections for capital outlay the sum of five million dollars ($5,000,000) for a 3,000-bed work-based medium and maximum security prison, at or in the vicinity of Corcoran in Kings County.

(b) There is hereby appropriated from the General Fund to the Department of Corrections, seven hundred fifty thousand dollars ($750,000) for allocation to any county wherein two or more state prisons, with a total design capacity of 5,900 or more beds, are being constructed.

Provisions:

(1) Funds appropriated by subdivision (a) shall be available for purposes as necessary, of site acquisition, site studies and suitability reports, Environmental Assessment Studies, master planning, architectural programming, schematics, preliminary plans, working drawings, construction, long lead and equipment items. The Legislature recognizes that additional appropriations will be required for the purposes of this project.

(2) None of the moneys appropriated in subdivision (b) shall be allocated unless and until the Director of Corrections determines that the two new prisons are likely to have an impact on courtroom use.

(3) Funds allocated from subdivision (b) shall be available only for the construction, alteration, or rehabilitation of courtrooms and related facilities.

SEC. 2.9. Beds added at the California Institution for Men pursuant to Item 5240-301-036(15) of the Budget Act of 1985 shall be phased out by October 1, 1987.

It is the intent of the Legislature that, to the extent that available capacity permits, California Institution for Men, East, and California Institution for Men, Minimum, shall be reduced to at least 120% of capacity by 1992.

SEC. 3. Notwithstanding Section 4527 and 4528 of the Government Code, the Department of Corrections may amend existing contracts with firms providing architectural or engineering services or both to perform all required architectural or engineering services or both for the expansion beds authorized in Section 4 of this act.

SEC. 4. Notwithstanding any other provision of law:

(a) The Department of Corrections is authorized to increase by 500 level III beds each, the design capacity of:

(1) The Southern Maximum Security Complex at Tehachapi.

(2) The California Correctional Center at Susanville.

(3) The Sierra Conservation Center at Jamestown.

(b) Notwithstanding Section 1 of Chapter 1, Statutes of 1982, or any other provision of law, the full employment in Correctional Industries or participation in vocational training of all inmates shall not be required for the expansion beds authorized in this section. It is the intent of the Legislature, however, that the Department of Corrections shall provide for the appropriate opportunities for employment and participation in vocational training as provided under Section 1 of Chapter 1 of the Statutes of 1982, at the earliest possible opportunity.

(c) Notwithstanding Section 7003 of the Penal Code, approval by the Joint Legislative Prison Committee as specified in Section 7003 of the Penal Code shall not be required for construction of the facilities authorized in this section.

(d) Subdivisions (b) and (c) of this section shall be operative only until July 1, 1988, and, as of that date shall no longer have any force and effect.

SEC. 5. Notwithstanding any other provisions of law:

The Department of Corrections is authorized to establish, renovate, and construct as necessary 150 Level I and Level II beds in San Gabriel Canyon in Los Angeles County.

SEC. 6. Notwithstanding any other provision of law, the Department of Corrections may immediately begin preparation of preliminary plans and working drawings for the facilities authorized by Section 4 of this act.

SEC. 7. The Chairperson of the Joint Legislative Budget Committee, or his or her designee, shall expeditiously dispose of requests by the Department of Corrections for waivers of the 30-day-notice period provided in provision 3 of Item 5240-001-001 of the Budget Act of 1985.

SEC. 7.5. The Director of General Services, with the approval of the State Public Works Board, is hereby authorized to sell, exchange, or lease for current market value or for any lesser consideration authorized by law, and upon such terms and conditions and with such reservations and exceptions as in his opinion may be for the best interest of the state, all or any part of the five parcels of real property near Adelanto in San Bernardino County, comprising approximately 288 acres, that was acquired for the Department of Corrections for a potential prison site.

SEC. 7.7. The Department of Corrections may contract with county sheriffs for the placement of state prison inmates in county custodial facilities. Those contracts may provide for state funds necessary to renovate the county facilities as necessary for placement of state inmates.

SEC. 8. The Department of Corrections shall perform site suitability studies and evaluate the feasibility of constructing a prison in the vicinity of Yuba City and Marysville and report its findings to the Legislature. These studies may address, but shall not be limited to, the following: hydrology, archeology, geology, biology, seismology, traffic analysis, and engineering. The studies shall identify the proposed custody level of inmates at the proposed prison, the size of the proposed facility, and the work programs to be used at the proposed facility.

SEC. 8.5. To carry out the provisions of this act, the sum of seventy-eight million eight hundred thousand dollars ($78,800,000) is appropriated as follows:

(a) There is hereby appropriated from the Reserve for Economic Uncertainties to the Department of Corrections, the sum of twenty-eight million three hundred thousand dollars ($28,300,000) to be allocated as follows:

(1) For the construction of 500 Level III beds at Sierra Conservation Center at Jamestown 25,800,000

(2) For contracts with county sheriffs for the placement of state prison inmates in county facilities and related renovations, as authorized

by Section 7.7 of this act 2,500,000

(b) There is hereby appropriated from the Reserve for Economic Uncertainties to the Department of Corrections, for capital outlay, the sum of fifty million five hundred thousand dollars ($50,500,000) to be allocated as follows:

(1) For the connection of new sewage treatment plant capacity at the California Rehabilitation Center Norco		1,900,000
(2) For emergency modifications to existing facilities to accommodate overcrowding to be allocated as follows:		3,500,000
(A) Purchase of camp trailers or modular units	390,400	
(B) Minor projects	3,109,600	
(3) For the construction of 500 Level III beds at Southern Maximum Security Complex at Tehachapi		23,800,000
(4) For the construction of 500 Level III beds at the California Correctional Center at Susanville		21,300,000

Provided that prior to the expenditure of $737,000 within the $3.5 million in paragraph 2 for unspecified emergency modification beds, the Department of Finance shall provide notification to the Legislature's fiscal committees, pursuant to the provisions of Section 28.00 of the Budget Act of 1985, of the following: (A) a plan for expenditure, (B) schedule of activities, (C) scope of project, and (D) implementation plan for each project at each site. The Department of Finance shall also notify the Joint Legislative Prison Construction Committee.

SEC. 9. If any provision of this act or the application thereof to any person or circumstances is held invalid, such validity shall not affect other provisons or applications of the act which can be given effect without the invalid provisions or applications and to this end the provisions of this act are severable.

SEC. 10. For payment of attorneys fees in the case of Sagaser v. Director of Corrections the sum of one hundred twenty-five thousand dollars ($125,000) is appropriated from the General Fund, notwithstanding Section 5 and Item 9810-001-001 of the Budget Act of 1985, upon settlement, provided that plaintiffs shall waive any further claim against the State for compensation associated with that case.

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:

The state's prison system is currently overcrowded and overpopulated to the point California faces a public safety crisis. The prison population has increased during the past 2½ years at an average rate of 100 inmates each week; during much of 1985, the increase has averaged an additional 170 inmates per week. Most of these inmates were sent to prison because they committed violent crimes. The courts have determined that various conditions which were indicents of overcrowding must be corrected. The Legislature and the people of California have determined that immediate expansion of the prison system by the swiftest possible means is necessary to relieve the system from current and anticipated overcrowding and to maintain the public safety and security. The provisions included in this bill are essential to permit the state to deal with this immediate and current crisis.

CHAPTER 934

An act to amend Section 26529 of, and to add Sections 26553.5 and 27591.5 to, the Health and Safety Code, and to amend Section 307 of the Penal Code, relating to food.

[Approved by Governor September 25, 1985 Filed with Secretary of State September 25, 1985]

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

SECTION 1. Section 26529 of the Health and Safety Code is amended to read:

26529. Any food is adulterated if it is confectionery and any one of the following conditions exist:

(a) It has partially or completely embedded therein any nonnutritive object, provided that this subdivision shall not apply in the case of any nonnutritive object if, in the judgment of the department as provided by regulation, the object is of practical functional value to the confectionery product and would not render the product injurious or hazardous to health.

(b) It bears or contains any alcohol in excess of 5 percent by weight.

(c) It bears or contains any nonnutritive substance, provided that this subdivision shall not apply to a safe nonnutritive substance which is in or on confectionery by reason of its use for some practical functional purpose in the manufacture, packaging, or storage of the confectionery if the use of the substance does not promote deception of the consumer or otherwise result in adulteration or misbranding in violation of any provision of this act; and provided further that the department may, for the purpose of avoiding or resolving

uncertainty as to the application of this clause, issue regulations allowing or prohibiting the use of particular nonnutritive substances.

SEC. 2. Section 26553.5 is added to the Health and Safety Code, to read:

26553.5. Any food is misbranded if it is a confectionery and contains alcohol in excess of ½ of 1 percent by weight and that fact does not appear on the label for the food.

SEC. 3. Section 27591.5 is added to the Health and Safety Code, to read:

27591.5. Any food facility which serves or sells over the counter directly to the consumer an unlabeled or unpackaged food that is a confectionery which contains alcohol in excess of ½ of 1 percent by weight shall provide written notice to the consumer of that fact. The notice shall be prominently displayed or be provided in some other manner, as determined by the department. The department shall adopt regulations to govern the notice required by this section in order to effectuate the purposes of this section.

SEC. 4. Section 307 of the Penal Code is amended to read:

307. Every person, firm, or corporation which sells or gives or in any way furnishes to another person, who is in fact under the age of 21 years, any candy, cake, cookie, or chewing gum which contains alcohol in excess of ½ of 1 percent by weight, is guilty of a misdemeanor.

SEC. 5. No reimbursement is required by this act pursuant to 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 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 935

An act to add Section 14132.8 to the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor September 25, 1985 Filed with Secretary of State September 25, 1985.]

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

SECTION 1. The Legislature finds and declares all of the following:

(a) Under existing law, Medi-Cal benefits are provided the recipient for services which are medically necessary to protect life or prevent significant disability.

(b) Elderly stroke victims need rehabilitation services in order that they may regain the use of their limbs, speech, or other faculties which have been impaired by a stroke.

(c) The elderly population faces lives of nonexistence because of handicaps resulting from strokes.

(d) Rehabilitation treatment under Medi-Cal could make elderly stroke victims self-sufficient and restore them to more normal lives.

(e) Remaining within the family support circle increases and encourages progress for a successful recovery.

SEC. 2. Section 14132.8 is added to the Welfare and Institutions Code, to read:

14132.8. Services covered under this chapter shall include rehabilitative services for the physically or cognitively impaired stroke patient for whom the medical prognosis and signs indicate potential for faster or more complete recovery, or maintenance or prevention of degeneration, in a variety of situations, including acute inpatient intensive rehabilitation immediately after the occurrence of stroke, inpatient maintenance for the chronically impaired in a hospital or long-term care facility, outpatient services in a rehabilitation clinic or an adult day health care center, and in-home care or home health agency services for the stroke patient at home.

Rehabilitative services for the physically or cognitively impaired stroke patient only for those whom the medical prognosis and signs indicate potential for faster or more complete recovery, or maintenance or prevention of degeneration, shall be considered to fall within the definition of medical necessity, as that term is used in Section 14133.3.

This section shall not negate the department's utilization review authority under subdivision (a) of Section 14133.

CHAPTER 936

An act to amend Section 11130.5 of, and to add Section 11130.3 to, the Government Code, relating to meetings of state bodies.

[Approved by Governor September 25, 1985 Filed with Secretary of State September 25, 1985]

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

SECTION 1. Section 11130.3 is added to the Government Code, to read:

11130.3. (a) Any interested person may commence an action by mandamus, injunction, or declaratory relief for the purpose of obtaining a judicial determination that an action taken by a state body in violation of Section 11123 or 11125 is null and void under this section. Any action seeking such a judicial determination shall be commenced within 30 days from the date the action was taken. Nothing in this section shall be construed to prevent a state body from curing or correcting an action challenged pursuant to this section.

(b) An action shall not be determined to be null and void if any of the following conditions exist:

(1) The action taken was in connection with the sale or issuance of notes, bonds, or other evidences of indebtedness or any contract, instrument, or agreement related thereto.

(2) The action taken gave rise to a contractual obligation upon which a party has, in good faith, detrimentally relied.

(3) The action taken was in substantial compliance with Sections 11123 and 11125.

(4) The action taken was in connection with the collection of any tax.

SEC. 2. Section 11130.5 of the Government Code is amended to read:

11130.5. A court may award court costs and reasonable attorney's fees to the plaintiff in an action brought pursuant to Section 11130 or 11130.3 where it is found that a state body has violated the provisions of this article. The costs and fees shall be paid by the state body and shall not become a personal liability of any public officer or employee thereof.

A court may award court costs and reasonable attorney's fees to a defendant in any action brought pursuant to Section 11130 or 11130.3 where the defendant has prevailed in a final determination of the action and the court finds that the action was clearly frivolous and totally lacking in merit.

CHAPTER 937

An act to add Article 9 (commencing with Section 60720) to Chapter 5 of Part 33 of the Education Code, relating to school testing.

[Approved by Governor September 25, 1985 Filed with Secretary of State September 25, 1985]

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

SECTION 1. Article 9 (commencing with Section 60720) is added to Chapter 5 of Part 33 of the Education Code, to read:

Article 9. Test Information

60720. It is the intent of the Legislature in enacting this article to authorize school districts to administer standardized achievement tests. It is also the intent of the Legislature that school districts that administer these tests shall inform parents of the test scores of their children, provide parents with a general explanation of the meaning of those test scores, and encourage parents to contact the school in which their children are enrolled to obtain more detailed information as to the performance of their children in standardized

achievement tests.

60721. A school district may administer standardized achievement tests.

60722. A school district which administers published standardized achievement tests that are norm-referenced shall do all of the following:

(a) Report each pupil's individual score, in writing, to the pupil's parent or guardian. The written report shall include a clear explanation of the purpose of the test, the pupil's score, and its intended use by the school district. The written report may be included with the mailing of the next pupil report card. Nothing in this section shall be construed to require teachers to prepare individualized explanations of each pupil's test score.

(b) Invite parents to contact the school counselor, school principal, or other appropriate school employee for further explanation of the pupil's performance or information regarding how the parent or guardian can best assist the school and pupil in improving the pupil's performance.

CHAPTER 938

An act to add Chapter 11 (commencing with Section 11950) to Part 3 of Division 6 of the Water Code, relating to water resources, and making an appropriation therefor.

[Approved by Governor September 25, 1985 Filed with Secretary of State September 25, 1985]

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

SECTION 1. Chapter 11 (commencing with Section 11950) is added to Part 3 of Division 6 of the Water Code, to read:

CHAPTER 11. WATER CONSERVATION AND RECLAMATION PROJECTS

Article 1. Policy

11950. This chapter shall be known and may be cited as the Water Conservation Projects Act of 1985.

11951. The Legislature hereby finds and declares all of the following:

(a) Agriculture is this state's largest income producer, contributing approximately $14 billion annually to the economy of the state. California agriculture remains the leader in the development of modern agricultural technology and is supported by the world's leading agricultural education and research institutions. However, the future growth and prosperity of agriculture is

threatened by a lack of necessary irrigation water.

(b) The population of California is expected to increase by over three million persons by the year 2000. This increase alone will require at least an additional 600,000 acre-feet of water annually for municipal purposes.

(c) Upon commencement of the operation of the Central Arizona Project which is scheduled to occur by 1985, over 662,000 acre-feet of water presently available for use each year in California will be lost to the State of Arizona pursuant to decisions of the United States Supreme Court. These court decisions decrease the total water supply available to California from the Colorado River by a quantity sufficient to supply the needs of three and one-half million people.

(d) The central San Joaquin Valley faces a critical water shortage amounting to approximately 1.4 million acre-feet annually which is presently being mined from the groundwater basin. The lowering of the groundwater table is causing irrigation water to be pumped at excessive depths of 500 to 600 feet or more, which requires a tremendous use of energy at a high cost.

(e) Based on a 50 year average, California faces a drought in one out of every four years. During periods such as the 1976–1977 drought, the state has had critical water shortages, requiring emergency conservation measures and resulting in thousands of acres of prime agricultural land in the San Joaquin Valley remaining unplanted. At the peak of the 1976–77 drought period, the state lost approximately $1.5 billion in crop revenues as a result of inadequate supplies of irrigation water.

(f) A portion of the foregoing water requirements may be economically met by water conservation and reclamation projects which produce substantial quantities of additional usable water for use in areas of the state with inadequate local supplies.

11952. (a) It is the intent of the Legislature in enacting this chapter to encourage local agencies and private enterprise to implement potential water conservation and reclamation projects by establishing a state program to finance or assist in financing projects which meet state criteria and will result in additional supplies of water for use in areas of need. Water conservation and reclamation projects, including facilities for municipal and industrial advanced waste water treatment, regulatory impoundments, improvements to water supply and delivery systems, tailwater recovery systems, and sprinkler or drip irrigation systems, may result in increased quantities of usable water for beneficial purposes, but may be financially unattractive at the local level if the cost of additional fresh water is less than the cost to conserve or reclaim water.

(b) It is in the interests of both the users of water supplied by the state and the users of local water supplies to undertake water conservation and reclamation projects which supply water for purposes of the State Water Resources Development System at a cost less than the cost of new state water development facilities, and which provide benefits to local water users, including decreased salt

concentrations, resulting from increased irrigation efficiency and reduced problems of pollution from waste water discharges. It is not the intent of the Legislature in enacting this chapter to affect or otherwise defer the construction of water facilities necessary to meet the requirements of the people of this state, and nothing in this chapter shall be construed to affect the authority of the department under any other provision of law.

11953. Nothing in this chapter shall be construed to alter or impair any provision of law providing protections for areas of origin, including, but not limited to, Article 1.7 (commencing with Section 1215) of Chapter 1 of Part 2 of Division 2, Section 10505, Article 3 (commencing with Section 11460) of Chapter 3, or Part 4.5 (commencing with Section 12200).

11954. Nothing in this chapter shall be construed to alter or impair any existing rights, including rights to divert water from the Colorado River and rights to the distribution or use of that water.

Article 2. Statewide Water Conservation

11960. Any water supplier or user of water in the state that has an existing right which permits the supplier or user to sell water may enter into a contract under this chapter to finance the conservation or reclamation of water and to sell the conserved or reclaimed water to another water supplier or water user.

11961. Notwithstanding any other provision of law, where any person or public agency undertakes any water conservation effort, either separately or jointly, pursuant to any contract with any other water user, which results in a reduced use of water by that person or agency, no forfeiture, dimunition, or impairment of the right to use the water conserved shall occur, except as set forth in the agreements between the parties.

11962. Water conservation and reclamation projects eligible for assistance under this chapter include, but are not limited to, the following:

(a) Projects for municipal and industrial advanced waste water treatment to permit the reuse of the water for additional purposes.

(b) Projects for the improvement of water supply and delivery facilities.

(c) Projects for the improvement of on-farm irrigation systems, including tailwater recovery systems, regulatory impoundments, and sprinkler, drip, or other irrigation systems which enable more efficient use of water.

11963. Any contract entered into pursuant to this chapter for the transfer or sale of conserved or reclaimed water may provide for the recall of water and may include terms for that recall. Any recall provisions shall include a notice period of not less than five years unless otherwise agreed by the parties.

11964. Water conservation or reclamation projects developed pursuant to this chapter may be funded pursuant to any bond law

heretofore or hereafter approved by the voters if the project is otherwise eligible for funding under the bond law.

11965. This article shall not be applicable to the State Water Resources Development System.

Article 3. Conservation in the State Water Resources Development System

11970. The department may use Central Valley Project revenue bonds or other funds available for the purposes of the State Water Resources Development System to finance, in whole or in part, water conservation programs and facilities that reduce demands by the sponsoring contractor for project water from the system for a period of time agreed to by the sponsoring contractor, and thereby increase the supply of project water available in the Sacramento-San Joaquin Delta for distribution to other contractors.

11971. As used in this article, "sponsoring contractor" means a contractor or contractors, who have a long-term water supply contract with the department and who agree to reduce demands for project water from the State Water Resources Development System in accordance with Section 11970.

11972. A local water conservation project described in Section 11970 is eligible for funding pursuant to this article if, in the determination of the department, the project meets all of the following criteria:

(a) The project is engineeringly feasible and is capable of producing project water which is economically competitive with alternative new water supply sources.

(b) The construction and operation of the facilities and programs will not interfere with the requested deliveries of annual entitlement water to any contractor other than the sponsoring contractor.

(c) The project will not result in any greater annual charges to any contractor, other than the sponsoring contractor, than would have occurred with the construction at the same time of alternative new water supply sources constituting either reservoirs located north of the delta or off-aqueduct storage reservoirs located south or west of the delta designed to deliver water to the California Aqueduct.

11973. The department shall determine whether a local water conservation project described in Section 11970 is economically competitive by comparing, in an engineering and economic analysis, the local conservation project with alternative new water supply sources constituting either reservoirs located north of the delta or off-aqueduct storage reservoirs located south or west of the delta designed to supply water to the California Aqueduct. The analysis for the alternative new water supply sources shall use the average cost per acre-foot of yield in the latest studies made for those sources by the department and shall compare those facilties with the proposed local conservation project using commonly accepted engineering economics. In the case of a local conservation project to be funded

in part by the department as part of the system and in part from other sources, the economic analysis shall be applied only to the portion to be funded by the department as a part of the system.

11974. A local water conservation project described in Section 11970 shall not be constructed or implemented pursuant to this article until both of the following occurs:

(a) The sponsoring contractor signs a written agreement with the department which indicates all of the following:

(1) The approval of the facility or program by the sponsoring contractor.

(2) The yield and the period of time during which the water from the local conservation project constitutes project water.

(3) The disposition of the local conservation project or of the yield from the local conservation project upon the expiration of that period of time.

(b) All contractors within whose boundaries any portion of the local water conservation project is located, and who are not sponsoring contractors for the local conservation project, approve the local water conservation project in writing.

11975. In the event of a shortage in water supply, within the meaning of Article 18(a) of the standard water supply contract between the department and the state water supply contractors, the determination of whether to count, in whole or in part, the reduced demand from future conservation programs described in Section 11970 in the allocation of deficiencies among contractors shall be based on a project-by-project evaluation taking into consideration such factors as any limitation on the use of the water from the facilities and whether the sponsoring contractor has access to project water from the delta as an alternate to those facilities.

11976. This article is the only portion of this chapter applicable to the State Water Resources Development System.

Article 4. Administration

11980. The department shall establish criteria for determining the eligibility of water conservation projects for assistance under this chapter and shall establish criteria for determination of the economic, financial, and engineering feasibility of proposed water conservation projects. The department shall establish guidelines to encourage feasibility studies to determine potential sources of conserved water for purposes of this chapter and to determine parties interested in contracting with potential water purchasers pursuant to this chapter.

11981. The State Water Resources Control Board shall establish criteria for determining both of the following:

(a) The eligibility of water reclamation projects for assistance under this chapter.

(b) The economic, financial, and engineering feasibility of proposed reclamation projects.

11982. The department shall establish criteria for determining whether a water conservation or reclamation project results in a net increase in the amount of water made available for use and does not interfere with an established right to use of water by any other person or entity.

11983. The department and the State Water Resources Control Board shall only approve for funding by the state under this chapter those projects which result in a net increase in the amount of water available for use and which do not interfere with an established right to use of water by any other person or entity. Any agreement between parties for a conservation or reclamation project not using state financing shall not require approval by the department or the State Water Resources Control Board under this chapter but shall comply with the criteria adopted under Section 11981 or 11982.

11984. The department is authorized to adopt those rules and regulations as may be necessary to carry out, and as are consistent with, this chapter.

11985. In providing financial assistance pursuant to this chapter, the department shall impose terms and conditions that are designed to protect the state's investment and that are necessary to carry out the purposes of this chapter. The department shall keep full and complete records and accounts concerning all of its transactions under this chapter and shall render a report on those transactions to the Legislature within 15 days after the commencement of the first regular session of the Legislature following the effective date of this chapter.

SEC. 2. There is hereby appropriated to the Department of Water Resources from the General Fund the sum of one hundred fifty thousand dollars ($150,000) for expenditure during the 1985–86 fiscal year for the purposes of the Water Conservation and Reclamation Projects Act of 1985 (Chapter 11 (commencing with Section 11950) of Part 3 of Division 6 of the Water Code).

CHAPTER 939

An act to amend Section 25375 of the Health and Safety Code, relating to hazardous waste.

[Became law without Governor's signature Filed with Secretary of State September 26, 1985]

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

SECTION 1. Section 25375 of the Health and Safety Code, as amended by Chapter 104 of the Statutes of 1985, is amended to read:

25375. (a) If the board makes the determination, specified in subdivision (b), that losses resulted from the claimant's damages, injury, or disease, only the following losses are compensable pursuant

to this article:

(1) One hundred percent of uninsured, out-of-pocket medical expenses, for up to three years from the onset of treatment.

(2) Eighty percent of any uninsured, actual lost wages, or business income in lieu of wages, caused by injury to the claimant or the claimant's property, not to exceed fifteen thousand dollars ($15,000) per year for three years.

(3) One hundred percent of the fair market value of owner-occupied real property that is rendered permanently unfit for occupancy because of the release of a hazardous substance. For purposes of this paragraph, real property is rendered permanently unfit for occupancy only if a state or federal agency requires that it be evacuated for a period of six or more months because of the release of a hazardous substance. The fair market value of the real property shall be determined by an independent appraiser, and shall be considered by the independent appraiser as being equal to the value of the real property prior to the release of the hazardous substance that caused the evacuation of the property. Where compensation is made by the board pursuant to this paragraph, sole ownership of the real property shall be transferred to the state and any proceeds resulting from the final disposition of the real property shall be deposited into the state account, for expenditure by the department upon appropriation by the Legislature. To be eligible for compensation pursuant to this paragraph, claims for compensation shall be made within 12 months of the date on which the evacuation was ordered.

(4) One hundred percent of the expenses incurred due to the evacuation of a residence ordered by a state or federal agency. For purposes of this paragraph, "evacuation expenses" include the cost of shelter and any other emergency expenditures incurred due to an evacuation ordered by a state or federal agency. The board may provide compensation, pursuant to this paragraph, only if it finds that the evacuation expenses represent reasonable costs for the goods or services purchased, and would not have been incurred if an evacuation caused by a hazardous substance release had not occurred. The board may provide compensation for these evacuation expenses only if they were incurred within 12 months from the date on which evacuation was ordered.

(b) A loss specified in subdivision (a) is compensable pursuant to this article only if the board makes all of the following findings, based upon a preponderance of the evidence:

(1) A release of a hazardous substance occurred.

(2) The claimant or the claimant's property was exposed to the release of the hazardous substance.

(3) The exposure of the claimant to the release of the hazardous substance was of such a duration, and to such a quantity of the hazardous substance, that the exposure caused the damages, injury, or disease which resulted in the claimant's loss.

(4) For purposes of paragraphs (3) and (4) of subdivision (a), the

hazardous substance release, or the order which resulted in the claim for compensation, occurred on or after January 1, 1986.

(5) The conditions and requirements of this article, including, but not limited to, the conditions of Sections 25372 and 25373, have been met.

(c) No money shall be used for the payment of any claim authorized by this chapter, where the claim is the result of long-term exposure to ambient concentrations of air pollutants.

SEC. 2. Section 25375 of the Health and Safety Code, as amended by Chapter 104 of the Statutes of 1985, is amended to read:

25375. (a) If the board makes the determination, specified in subdivision (b), that losses resulted from the claimant's damages, injury, or disease, only the following losses are compensable pursuant to this article:

(1) One hundred percent of uninsured, out-of-pocket medical expenses, for up to three years from the onset of treatment.

(2) Eighty percent of any uninsured, actual lost wages, or business income in lieu of wages, caused by injury to the claimant or the claimant's property, not to exceed fifteen thousand dollars ($15,000) per year for three years.

(3) One hundred percent of the fair market value of owner-occupied real property that is rendered permanently unfit for occupancy because of the release of a hazardous substance. For purposes of this paragraph, real property is rendered permanently unfit for occupancy only if a state or federal agency requires that it be evacuated for a period of six or more months because of the release of a hazardous substance. The fair market value of the real property shall be determined by an independent appraiser, and shall be considered by the independent appraiser as being equal to the value of the real property prior to the release of the hazardous substance that caused the evacuation of the property. Where compensation is made by the board pursuant to this paragraph, sole ownership of the real property shall be transferred to the state and any proceeds resulting from the final disposition of the real property shall be deposited into the state account, for expenditure by the department upon appropriation by the Legislature. To be eligible for compensation pursuant to this paragraph, claims for compensation shall be made within 12 months of the date on which the evacuation was ordered.

(4) One hundred percent of the expenses incurred due to the evacuation of a residence ordered by a state or federal agency. For purposes of this paragraph, "evacuation expenses" include the cost of shelter and any other emergency expenditures incurred due to an evacuation ordered by a state or federal agency. The board may provide compensation, pursuant to this paragraph, only if it finds that the evacuation expenses represent reasonable costs for the goods or services purchased, and would not have been incurred if an evacuation caused by a hazardous substance release had not occurred. The board may provide compensation for these evacuation

expenses only if they were incurred within 12 months from the date on which evacuation was ordered.

(5) One hundred percent of uninsured, out-of-pocket expenses for remedial action on the claimant's property undertaken to address a release of a hazardous substance when all of the following apply:

(A) The claimant's property is an owner-occupied single-family residence.

(B) The remedial action was ordered by federal, state, or local authorities due to a release of a hazardous substance.

(C) The department makes one of the following determinations:

(i) The release of the hazardous substance originated outside the boundaries of the property.

(ii) The release of the hazardous substance occurred on the property, was the result of an action which violated state or federal law, and the responsible party cannot be identified or cannot be located, or a judgment against the responsible party cannot be satisfied.

The maximum compensation under this paragraph is limited to twenty-five thousand dollars ($25,000) per residence and to one hundred thousand dollars ($100,000) for five contiguous residential properties. Any compensation provided shall be reduced by the amount that the remedial action results in a capital improvement to the claimant's residence.

(b) A loss specified in subdivision (a) is compensable pursuant to this article only if the board makes all of the following findings, based upon a preponderance of the evidence:

(1) A release of a hazardous substance occurred.

(2) The claimant or the claimant's property was exposed to the release of the hazardous substance.

(3) The exposure of the claimant to the release of the hazardous substance was of such a duration, and to such a quantity of the hazardous substance, that the exposure caused the damages, injury, or disease which resulted in the claimant's loss.

(4) For purposes of paragraphs (3) and (4) of subdivision (a), the hazardous substance release, or the order which resulted in the claim for compensation, occurred on or after January 1, 1986.

(5) The conditions and requirements of this article, including, but not limited to, the conditions of Sections 25372 and 25373, have been met.

(c) No money shall be used for the payment of any claim authorized by this chapter, where the claim is the result of long-term exposure to ambient concentrations of air pollutants.

SEC. 3. Section 2 of this bill incorporates amendments to Section 25375 of the Health and Safety Code, as amended by Chapter 104 of the Statutes of 1985, proposed by both this bill and AB 2407. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1986, (2) each bill amends Section 25375 of the Health and Safety Code, and (3) this bill is enacted after AB 2407, in which case Section 1 of this bill shall not become operative.

CHAPTER 940

An act to add Section 6100.5 to the Probate Code, relating to wills.

[Approved by Governor September 25, 1985 Filed with Secretary of State September 26, 1985]

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

SECTION 1. Section 6100.5 is added to the Probate Code, to read:

6100.5. (a) A person is not mentally competent to make a will if at the time of making his or her will either of the following is true:

(1) He or she does not have sufficient mental capacity to be able to (A) understand the nature of the testamentary act, (B) understand and recollect the nature and situation of his or her property, or (C) remember and understand his or her relations to his or her living descendants, spouse, and parents, and those whose interests are affected by the will.

(2) He or she suffers from a mental disorder with symptoms including delusions or hallucinations, which delusions or hallucinations result in the person's devising his or her property in a way which, except for the existence of the delusions or hallucinations, he or she would not have done.

(b) Nothing in this section supersedes existing law relating to the admissibility of evidence to prove the existence of mental incompetence or mental disorders.

CHAPTER 941

An act to amend Section 52 of, and to add Section 17103 to, the Elections Code, relating to elections.

[Approved by Governor September 25, 1985 Filed with Secretary of State September 26, 1985]

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

SECTION 1. Section 52 of the Elections Code is amended to read:

52. No person shall be considered a legally qualified candidate for any office or party nomination for a partisan office under the laws of this state unless that person has filed a declaration of candidacy or statement of write-in candidacy with the proper official for the particular election or primary, or is entitled to have his or her name placed on a general election ballot by reason of having been nominated at a primary election, or having been selected to fill a vacancy on the general election ballot as provided in Section 6655, or having been selected as an independent candidate pursuant to Section 6894.

This section shall not be construed to prevent a voter from writing in the name of any person for an office at a primary or general election.

It is the intent of the legislature, in enacting this section, to enable the Federal Communications Commission to determine who is a "legally qualified candidate" in this state for the purposes of administering the provisions of Section 315 of the Communications Act of 1934.

SEC. 2. Section 17103 is added to the Elections Code, to read:

17103. The name of a write-in candidate shall be written by hand upon a ballot. The use of pressure-sensitive stickers or methods other than handwriting of indicating the name of the write-in candidate are not valid, and a name indicated by any such methods shall not be counted.

CHAPTER 942

An act to amend Section 19425 of the Business and Professions Code, to amend Section 80.6 of the Harbors and Navigation Code, and to amend Sections 536, 5020.3, and 5090.21 of the Public Resources Code, relating to state commissions, and making an appropriation therefor.

[Approved by Governor September 25, 1985. Filed with Secretary of State September 26, 1985]

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

SECTION 1. Section 19425 of the Business and Professions Code is amended to read:

19425. The members of the board shall receive a per diem of one hundred dollars ($100) for each day spent in attendance at meetings scheduled by the chairperson of the board for the purpose of fulfilling the duties of the board pursuant to this chapter, and shall be reimbursed for traveling and other expenses necessarily incurred in the performance of official duties.

Notwithstanding any other provision of law, any member of the board who is also a member of, and is entitled to receive the benefits from, the Legislators' Retirement System may elect to forego the compensation provided by this section 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 into the retirement system.

SEC. 1.5. Section 80.6 of the Harbors and Navigation Code is amended to read:

80.6. Members of the commission may receive a salary for their services in an amount of fifty dollars ($50) for each day, up to a maximum salary of one hundred dollars ($100) per month. A

member of the commission may also be reimbursed for the actual and necessary expenses which are incurred in the performance of the member's duties.

Notwithstanding any other provision of law, any member of the commission who is also a member of, and is entitled to receive the benefits from, the Legislators' Retirement System may elect to forego the compensation provided by this section 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 into the retirement system.

SEC. 2. Section 536 of the Public Resources Code is amended to read:

536. The members of the commission may receive a salary for their services in an amount of fifty dollars ($50) for each day, up to a maximum salary of one hundred dollars ($100) per month. A member of the commission may also be reimbursed for the actual and necessary expenses which are incurred in the performance of the member's duties.

Notwithstanding any other provision of law, any member of the commission who is also a member of, and is entitled to receive the benefits from, the Legislators' Retirement System may elect to forego the compensation provided by this section 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 into the retirement system.

SEC. 3. Section 5020.3 of the Public Resources Code is amended to read:

5020.3. (a) The commission shall meet at least four times per year in places it deems necessary to fulfill its responsibilities. Five members of the commission constitute a quorum.

(b) The commission shall elect annually from its members a chairperson and vice chairperson.

(c) The members of the commission may receive a salary for their services in an amount of fifty dollars ($50) for each day, up to a maximum salary of one hundred dollars ($100) per month. A member of the commission may also be reimbursed for the actual and necessary expenses which are incurred in the performance of the member's duties.

Notwithstanding any other provision of law, any member of the commission who is also a member of, and is entitled to receive the benefits from, the Legislators' Retirement System may elect to forego the compensation provided by this section 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 into the retirement system.

SEC. 4. Section 5090.21 of the Public Resources Code is amended to read:

5090.21. Members of the commission may receive a salary for their services in an amount of fifty dollars ($50) for each day, up to

a maximum salary of one hundred dollars ($100) per month. A member of the commission may also be reimbursed for the actual and necessary expenses which are incurred in the performance of the member's duties.

Notwithstanding any other provision of law, any member of the commission who is also a member of, and is entitled to receive the benefits from, the Legislators' Retirement System may elect to forego the compensation provided by this section 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 into the retirement system.

SEC. 5. The sum of thirteen thousand dollars ($13,000) is hereby appropriated for expenditure during the last half of the 1985–86 fiscal year (January 1, 1986, to June 30, 1986, inclusive), as follows:

(a) The sum of two thousand eight hundred dollars ($2,800) from the Harbors and Watercraft Revolving Fund to the Boating and Waterways Commission for purposes of Section 80.6 of the Harbors and Navigation Code.

(b) The sum of eight thousand one hundred ($8,100) from the General Fund for allocation as follows:

(1) Five thousand four hundred dollars ($5,400) to the State Park and Recreation Commission for purposes of Section 536 of the Public Resources Code.

(2) Two thousand seven hundred dollars ($2,700) to the State Historical Resources Commission for purposes of Section 5020.3 of the Public Resources Code.

(c) The sum of two thousand one hundred dollars ($2,100) from the Off-Highway Vehicle Fund to the Off-Highway Motor Vehicle Recreation Commission for purposes of Section 5090.21 of the Public Resources Code.

CHAPTER 943

An act to amend Sections 11892 and 12997 of, and to add Section 12999.5 to, the Food and Agricultural Code, relating to agricultural pest control.

[Approved by Governor September 25, 1985. Filed with Secretary of State September 26, 1985.]

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

SECTION 1. Section 11892 of the Food and Agricultural Code is amended to read:

11892. In lieu of seeking prosecution of any violation of this division as a misdemeanor, and the penalty prescribed in Section 11891, the director may prosecute civilly pursuant to Sections 11893 and 11894 or the commissioner may levy civil penalties pursuant to

Section 12999.5.

SEC. 2. Section 12997 of the Food and Agricultural Code is amended to read:

12997. In lieu of seeking prosecution of any violation of this division as a misdemeanor, and the penalty prescribed in Section 12996, the director may prosecute civilly pursuant to Sections 12998 and 12999 or the commissioner may levy civil penalties pursuant to Section 12999.5.

SEC. 3. Section 12999.5 is added to the Food and Agricultural Code, to read:

12999.5. (a) In lieu of civil prosecution by the director, the commissioner may levy a civil penalty against a person violating Division 6 (commencing with Section 11401), Article 10 (commencing with Section 12971) or Article 10.5 (commencing with Section 12980) of this chapter, Section 12995, Article 1 (commencing with Section 14001) of Chapter 3, or a regulation adopted pursuant to any of these provisions, of not more then five hundred dollars ($500) for each violation.

(b) Before a civil penalty is levied, the person charged with the violation shall receive notice of the nature of the violation and shall be given an opportunity to be heard. This shall include the right to review the commissioner's evidence and a right to present evidence on his or her own behalf.

(c) The person fined may appeal to the director within 10 days of the date of receiving notification of the fine. The following procedures apply to the appeal:

(1) The appeal need not be formal, but it shall be in writing and signed by the appellant or his or her authorized agent, and shall state the grounds for the appeal.

(2) Any party may, at the time of filing the appeal or within 10 days thereafter, present written evidence and a written argument to the director.

(3) The director may grant oral arguments upon application made at the time written arguments are filed.

(4) If an application to present an oral argument is granted, written notice of the time and place for the oral argument shall be given at least 10 days before the date set therefor. The times may be altered by mutual agreement.

(5) The director shall decide the appeal on any oral or written argument, briefs, and evidence that he or she has received.

(6) The director shall render a written decision within 45 days of the date of appeal or within 15 days of the date of oral arguments.

(7) On an appeal pursuant to this section, the director may sustain, modify by reducing the amount of the fine levied, or reverse the decision of the commissioner. A copy of the director's decision shall be delivered or mailed to the appellant and the commissioner.

(8) Review of the decision of the director may be sought by the appellant pursuant to Section 1094.5 of the Code of Civil Procedure.

(d) This section shall become operative on October 1, 1986.

SEC. 4. The director shall adopt regulations to serve as guidelines, on or before October 1, 1986, specifying the types of violations for which fines may be levied and the amounts of the fines that may be assessed pursuant to Section 12999.5 of the Food and Agricultural Code. The amounts of the fines shall be related to the seriousness of the violation and the potential for harm to public health or worker safety. These regulations shall also provide that the person fined be notified of the fine prior to its imposition.

CHAPTER 944

An act to amend Sections 4040, 4041, and 4044 of, and to add Section 4043.7 to, the Health and Safety Code, relating to water.

[Approved by Governor September 25, 1985 Filed with Secretary of State September 26, 1985]

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

SECTION 1. (a) The Legislature finds and declares as follows:

(1) It is the right of every consumer of bottled or vended drinking water to be aware of the chemicals contained in that product and to be able to purchase a safe, pure, potable, and wholesome product.

(2) Bottled water and vended water come from three main sources, which are public water systems, wells, and springs, which have the potential to become contaminated with inorganic and organic chemicals.

(3) Because of the disposal of hazardous waste, pesticide contamination, and other potential threats to the purity of drinking water supplies, there may be a need to monitor certain bottled water supplies for potential contaminants and to reduce contaminants to prevent an adverse effect on public health and safety.

(4) The United States Environmental Protection Agency has determined that conventional water treatment will generally not reduce the concentration of many inorganic and organic chemicals, but that they can be reduced or eliminated by treatment systems, such as granular activated carbon, reverse osmosis, ion exchange, and distillation, or combinations of these processes.

(b) Therefore, it is the purpose of this act to ensure that consumers of bottled or vended drinking water are purchasing a product that is not contaminated with concentrations of inorganic chemicals and organic chemicals, including pesticides and plasticizers which may have an adverse effect on public health and safety.

SEC. 2. Section 4040 of the Health and Safety Code is amended to read:

4040. (a) "Bottled water," means any drinking water or other water defined in Section 4044, which is placed in bottles or other

containers to be sold for drinking, culinary, or other purposes involving a likelihood of the water being ingested by human beings.

(b) "Water-bottling plant" means any facility in which bottled water is produced.

(c) "Water-vending machine" means either of the following:

(1) Any self-service device which, upon insertion of a coin, coins, or token, or upon receipt of payment by other means, dispenses unit servings of water in bulk, without the necessity of refilling the machine between each operation.

(2) Any device from which any operator or consumer dispenses unit servings of water in bulk

SEC. 3. Section 4041 of the Health and Safety Code is amended to read:

4041. (a) The state department shall adopt and enforce the regulations it determines are reasonably necessary to ensure that all bottled water and vended water which is sold or otherwise distributed in this state is pure, wholesome, potable, and contains no inorganic chemicals or organic chemicals, including pesticides and plasticizers in concentrations which may have an adverse effect on public health and safety. The regulations shall include, but not be limited to, all of the following:

(1) Minimum standards for the sanitary production and distribution of bottled water within this state. The standards shall include, but not be limited to, all of the following.

(A) Standards for the sanitary production, packaging, and distribution of bottled water shall not be less stringent than those standards prescribed by Part 110 and Part 129 of Title 21 of the Code of Federal Regulations.

(B) Standards to ensure that, prior to bottling, bottled water shall be subject to effective germicidal treatment by ozone, ultraviolet, or an equivalent disinfection process approved by the state department. The standards developed pursuant to this category for bottled water which contains carbon dioxide shall prescribe that sufficient compliance includes meeting the microbiological requirements described in Section 103 35 of Title 21 of the Code of Federal Regulations.

(C) Standards to ensure that dispensers for bottled water, which are furnished by the water bottler or distributor shall be delivered to the consumer's premises in a clean, sanitary condition, protected from dust or other contamination

(D) Standards to ensure that ollas or other water-holding dispensers, both refrigerated and nonrefrigerated, shall be examined for cleanliness each time the dispenser is serviced by the representative of the distributor or bottler. When necessary, these dispensers shall be sanitized in place or returned to the bottler or distributor for cleaning or sanitizing before reuse according to the methods described in Part 129 of Title 21 of the Code of Federal Regulations.

(2) Quality standards for bottled water and vended water.

The quality standards of bottled water and vended water shall not be less stringent than those standards prescribed by Section 103.35 of Title 21 of the Code of Federal Regulations, except as provided in paragraph (3) of subdivision (b) of Section 4044 of this code. The quality standards may include any additional standards that the state department determines are reasonably necessary to protect public health and safety. Notwithstanding any other provision of law, the quality standards shall ensure that bottled water and vended water contain no inorganic or organic chemicals, including pesticides and plasticizers, in concentrations which may have an adverse effect on public health and safety.

(3) Minimum standards of design, construction, and sanitation for any water-vending machine. Those water-vending machines, other than coin-operated self-service devices, from which any operator or customer dispenses unit servings in bulk may be exempted by the state department from the requirements of subparagraphs (G), (M), and (O). The minimum standards shall include, but not be limited to, all of the following:

(A) Provide that water-vending machines shall be in compliance with the construction and performance standards established by the state department or by an independent authority approved by the state department.

(B) Provide that all water-vending machines shall be designed and constructed to permit easy cleaning and maintenance of all exterior and interior surfaces.

(C) Provide that water-vending machines shall have all parts and surfaces which come into contact with the water constructed of approved, corrosive-resistant and nonabsorbent material capable of withstanding repeated cleaning and sanitizing treatment.

(D) Provide that water-vending machines shall have a recessed or guarded corrosion-resistant dispensing spout.

(E) Provide that water-vending machines be designed so all treatment of the vended water by distillation, ion exchange, filtration, ultraviolet light, reverse osmosis, mineral addition, or any other acceptable process is done in an effective manner.

(F) Provide that water-vending machines shall have an effective system of handling drip, spillage, and overflow of water.

(G) Provide that water-vending machines shall have a backflow prevention device approved by the state department for all connections with the water supply.

(H) Provide for disinfecting vended water by ultraviolet light or other method approved by the state department prior to delivery into the customer's container

(I) Provide that water-vending machines shall be equipped with monitoring devices designed to shut down operation of the machine when the disinfection unit fails to function.

(J) Provide that water-vending machines shall be equipped with a self-closing, tight-fitting door on the vending compartment.

(K) Provide that water-vending machines shall comply with the

Amercian Water Works Association (AWWA) specifications for granular activated carbon if used in the treatment of potable water (AWWA B604-74).

(L) Provide that water-vending machines shall be maintained in a clean and sanitary condition, free from dirt and vermin.

(M) Provide that water-vending machines shall be connected to a state approved and regulated public water supply.

(N) Provide that water-vending machines shall be located in an area that can be maintained in a clean condition and in a manner that avoids insect and rodent harborage.

(O) Provide that the water-vending machine shall be equipped with monitoring devices designed to shut down the labeled purified water delivery system if treatment of water by the machine does not result in a total dissolved solids content of less than 10 milligrams per liter in the purified water.

(4) Standards for labeling and advertising of bottled water and vended water, which shall be in accordance with state laws relating to labeling and advertising.

(5) Standards for processing bottled water through a line or lines used for any other food product.

(b) The state department, upon the request of a local health officer, may authorize the local health officer to implement and enforce those provisions of this chapter which relate to water-vending machines under the terms and conditions specified by the state department.

SEC. 4. Section 4043.7 is added to the Health and Safety Code, to read:

4043.7. (a) Upon a determination by the state department that a particular water source is subject to potential contamination, the department shall notify the bottler, distributor, vendor of bottled water, or the owner and operator of any water-vending machine of the specific contaminants or class of contaminants which pose a potential health risk.

(b) Within 90 days after notification by the state department, the bottler, distributor, vendor of bottled water, or the owner and operator of any water-vending machine shall conduct an analysis of the water source at issue and submit the results of the analysis to the state department, unless the water source is a public water supply currently being periodically monitored for the contaminants of concern, as required by the state department. The water analysis shall be conducted by a laboratory and by test methods approved by the state department.

(c) If evidence of contamination is found, the state department may, by order, require the bottler, distributor, vendor of bottled water, or the owner and operator of any water-vending machine to conduct a source and product water analysis for the contaminants of concern in accordance with conditions specified by the state department. The water analysis shall be conducted and reported on an annual basis, unless the state department finds that reasonable

action requires either more frequent or less frequent analysis.

(d) The state department may, by order, require the bottler, distributor, vendor of bottled water, or the owner and operator of any water-vending machine to reduce or eliminate the concentration of any chemical which the state department determines may have an adverse effect on public health and safety. Until an enforceable standard has been established for a chemical which may have an adverse effect on human health, the state department may require treatment techniques to reduce the concentration of the contaminants which require treatment necessary, in the state department's judgment, to prevent known or anticipated adverse effects on the health of persons. The treatment system shall be designed to meet criteria designated by the state department or by an independent authority approved by the state department.

(e) The state department may grant variances from the requirements of subdivision (d), if the bottler, distributor, vendor of bottled water, or the owner and operator of any water-vending machine demonstrates either of the following:

(1) That the prescribed treatment technique is not necessary to protect the health of consumers because its raw water source is not subject to, nor is it likely to be subject to, significant chemical contamination.

(2) An alternative treatment technique is at least as efficient in lowering the level of contaminants to be controlled.

SEC. 5. Section 4044 of the Health and Safety Code is amended to read:

4044. (a) Each container of bottled water sold in this state and each water-vending machine located in this state shall be clearly labeled in an easily readable format. Bottled water may be labeled "drinking water," notwithstanding the source or characteristics of the water, only if it is processed pursuant to the Food and Drug Administration Good Manufacturing Practices contained in Section 103.35 and Parts 110 and 129 of Title 21 of the Code of Federal Regulations, Sections 12235 to 12285, inclusive, of Title 17 of the California Administrative Code, and any other requirements established by the state department pursuant to Sections 4043.5 and 4043.6. Any vended water may be labeled "drinking water," notwithstanding the source or characteristics of the water, only if it is processed pursuant to Article 5 (commencing with Section 28660) of Chapter 11 of Division 22 and any other requirements established by the state department pursuant to Sections 4043.5 and 4043.6.

(b) In addition to the requirements of subdivision (a), if a manufacturer provides information in the labeling or advertising of bottled water or vended water, stating or implying it is the product of a specific source of water or treated in a specific manner, the source or treatment shall be clearly labeled in an easily readable format. In order to be so labeled, the source or treatment shall conform to the following criteria:

(1) "Artesian well water" means water from a well tapping an aquifer in which the water level will stand above the bottom of the confining bed of the aquifer, and in which the hydraulic pressure of the water in the aquifer is greater than the force of gravity. Artesian well water shall not be altered by the addition or deletion of minerals or by blending it with water from another source, except that artesian well water may be filtered and shall be treated with ozone or an equivalent disinfection process. Any water which satisfies the designation of this paragraph may be labeled "artesian well water."

(2) "Fluoridated water" means water containing naturally occurring or added fluoride. The label shall specify whether it is naturally occurring or added fluoride. Any water which meets the designation of this paragraph shall contain not less than 1.0 milligram per liter fluoridization and otherwise comply with the Food and Drug Administration quality standards set forth in Section 103.35(d)(2) of Title 21 of the Code of Federal Regulations.

(3) "Mineral water" means bottled water or vended water containing more than 500 milligrams per liter of total dissolved solids and originating entirely from an underground source, which may be a well, artesian well, or spring. Bottled or vended mineral water may be derived from a natural orifice or from a bore hole adjacent to the natural orifice. If it is derived from a natural orifice by external force or from a bore hole adjacent to the natural orifice, the water shall be from the same underground stratum and be of the same quality and composition as the water derived from the natural orifice without external force. Mineral water may contain one or more naturally occurring chemical constituents listed in the Primary or Secondary Drinking Water Standards of the Environmental Protection Agency in excess of the concentrations listed in Section 103.35 of Title 21 of the Code of Federal Regulations. Mineral water may not be altered by the addition or deletion of minerals or by blending it with water from another source, except that mineral water may be filtered and shall be treated with ozone or an equivalent disinfection process approved by the state department and shall be treated to reduce the concentrations of any naturally occurring substance which exceeds the bottled water safety standards established by the state department, unless the product is natural mineral water packaged in containers of one liter or less. Mineral water may be collected and transported by pipes, tunnels, trucks, or similar devices. On or before January 1, 1987, the state department shall adopt quality standards for any naturally occurring constituents of mineral water listed in the Environmental Protection Agency's Primary Drinking Water Standards. In adopting the standards, the state department shall take into account the unique qualities of mineral water, the natural components of mineral water, and the rate of consumption of mineral water, as compared to drinking water. The standards shall not be more stringent than those established for bottled water. Any water which meets the criteria of this paragraph may also be labeled "natural mineral water."

(A) Mineral water which contains carbon dioxide as it emerges from the source and is bottled directly with its entrapped gas, or, the gas is mechanically separated from the water and later reintroduced into the water at the time of bottling shall be labeled "naturally carbonated" or "naturally sparkling."

(B) Mineral water which contains carbon dioxide, other than that naturally occurring in the source product, shall be labeled with the words "carbonation added" or "carbon dioxide added" when the carbonation is obtained from a natural or manufactured source

(4) "Mineralized water" means bottled or vended water which meets the requirements of "mineral water" except that the water contains added minerals.

(5) "Natural water" means bottled or vended spring, artesian well, or well water which is unmodified by mineral addition or deletion, except that "natural water" may be filtered and shall be sanitized with ozone or an equivalent disinfection process and treated to reduce the concentration of any substance which exceeds safety standards established by the state department

(6) "Naturally sparkling water" means bottled water or vended water with a carbon dioxide content from the same source as the water. "Sparkling," "carbonated," or "carbonation added" means bottled water or vended water which contains carbon dioxide

(7) "Purified water" means water produced by distillation, deionization, reverse osmosis, or other method meeting the definition of purified water in the 20th Edition of the United States Pharmacopeia. Water which meets the designation of this paragraph, and is vaporized, then condensed, may be labeled "distilled water."

(8) "Spring water" means water which issues by natural forces out of the earth at a particular place. Bottled or vended spring water may be derived from the natural orifice or from a bore hole adjacent to the natural orifice. If it is derived from the natural orifice by external force or from a bore hole adjacent to the natural orifice, the water shall be from the same underground stratum and be of the same quality and composition as the water derived from the natural orifice without external force. Spring water may not be altered by the addition or deletion of minerals or by blending it with water from another source, except that spring water may be filtered and shall be treated with ozone or an equivalent disinfection process. Spring water may be collected and transported by pipes, tunnels, trucks, or similar devices.

(9) "Well water" means water from a hole bored into the ground which taps the water of an aquifer, except that well water may be filtered and shall be treated with ozone or an equivalent disinfection process.

(10) Notwithstanding any other provision of this section, water from a public water system which is unprocessed by the bottler or vendor shall be labeled as "unprocessed public drinking water."

SEC. 6. No reimbursement is required by this act pursuant to 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 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 945

An act to amend Section 289 of the Penal Code, relating to crimes.

[Approved by Governor September 25, 1985 Filed with Secretary of State September 26, 1985]

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

SECTION 1. Section 289 of the Penal Code is amended to read:

289. (a) Every person who causes the penetration, however slight, of the genital or anal openings of another person, by any foreign object, substance, instrument, or device when the act is accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person for the purpose of sexual arousal, gratification, or abuse, shall be punished by imprisonment in the state prison for three, six, or eight years.

(b) Except as provided in subdivision (c), every person who causes the penetration, however slight, of the genital or anal openings of another person by any foreign object, substance, instrument, or device, 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 for the purpose of sexual arousal, gratification, or abuse, shall be punished by imprisonment in the state prison for three, six, or eight years.

(c) Every person who causes the penetration, however slight, of the genital or anal openings of another person by any foreign object, substance, instrument, or device, and both the defendant and the victim are at the time confined in a state hospital for the care and treatment of the mentally disordered or in any other public or private facility for the care and treatment of the mentally disordered approved by a county mental health director, 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 for the purpose of sexual arousal, gratification, or abuse, shall be punished by imprisonment in the state prison, or in a county jail for a period of not more than one year.

(d) As used in this section, "foreign object, substance, instrument, or device" shall include any part of the body, except a sexual organ.

SEC. 2. No reimbursement is required by this act pursuant to

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 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 946

An act to amend Sections 25101, 25211, 25213, 25535, 25607, 25608, and 31402 of, and to add Section 31405 to, the Corporations Code, relating to securities.

[Approved by Governor September 25, 1985 Filed with Secretary of State September 26, 1985]

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

SECTION 1. Section 25101 of the Corporations Code is amended to read:

25101. The following securities are exempt from the provisions of Section 25130:

(a) Any security issued by a person which is the issuer of any security listed on a national securities exchange certified by rule or order of the commissioner.

(b) Any security (except limited or general partnership interests) issued by a person which (i) is the issuer of any security listed on a national securities exchange which is not certified by the commissioner pursuant to subdivision (a) hereof, (ii) is the issuer of any security registered under Section 12(g) of the Securities Exchange Act of 1934 or is exempt from registration under such Section 12 by Section 12(g) (2) (G) of that act, or (iii) is registered under the Investment Company Act of 1940, if in any such case, there has been filed with the commissioner a notice in such form as the commissioner shall specify by rule setting forth the following:

(1) The name of the issuer, the date of its organization, and the jurisdiction under whose laws it is organized;

(2) The issuer's taxpayer identification number as assigned by the federal Department of Internal Revenue and, if applicable, the issuer's file number under the Securities Exchange Act of 1934 or the Investment Company Act of 1940 as assigned by the federal Securities and Exchange Commission or other appropriate federal regulatory agency;

(3) A statement that the issuer has a currently effective registration under Section 12 of the Securities Exchange Act of 1934 (specifying the subsection thereof) or the Investment Company Act of 1940, or that it is exempt from registration under such Section 12 by Section 12(g) (2) (G) thereof;

(4) A statement that the issuer has a class of equity securities held

by 500 or more persons and has total assets exceeding one million dollars ($1,000,000), determined in such manner as is provided by rule of the commissioner or, in the absence of a rule with respect to a determination of total assets, in accordance with generally accepted accounting principles;

(5) A description of each security of the issuer which is to be exempted pursuant to this subdivision, and a statement that each class of common stock described in that notice, if any, possesses full voting rights equal per share to the voting rights possessed by any other class of common stock of the issuer;

(6) An undertaking to file a supplemental notice if any of the facts stated in the notice previously filed with the commissioner shall, to the knowledge of the filer of that notice, cease to be true.

(7) The name and address of the person filing the notice, the signature of that person or of the authorized principal officer of that person (and the name of that principal officer), and a verification to the best knowledge or belief of the person signing the notice of all of the information contained in that notice.

The notice provided for herein may be filed by the issuer, any broker-dealer registered under this law or any holder of record or beneficially of any of the securities covered by the notice. Except in the case of a notice filed by an issuer, the exemption provided by this subdivision shall lapse 13 months after the filing of the notice.

(c) The exemption provided by subdivision (a) or (b) of this section shall not apply to any of the following:

(1) Securities offered pursuant to a registration under the Securities Act of 1933 or pursuant to the exemption afforded by Regulation A under that act if the aggregate offering price of the securities offered pursuant to that exemption exceeds fifty thousand dollars ($50,000);

(2) Securities which the commissioner has found, after notice and, if requested as hereinafter provided, hearing, to be the subject of a notice or supplemental notice filed pursuant to subdivision (b) which contains any statement which is, or which was at the time of filing, materially untrue. Notice hereunder shall be given to the person named pursuant to paragraph (7) of subdivision (b), to the issuer unless the notice or supplemental notice was filed by the issuer, and to licensed broker-dealers. The notice shall state the reasons for the issuance of the notice and that the exemption pursuant to this section for the security identified therein may be terminated unless, within 10 business days, either a notice or supplemental notice is filed in accordance with subdivision (b) or a written request for hearing is received, that hearing to commence within 15 business days of the receipt of the notice unless the commissioner consents to a later date An order terminating an exemption pursuant to this paragraph shall be effective when issued or at such time thereafter as the commissioner may provide.

(3) All securities of an issuer when the commissioner has found the issuer has ceased to have any securities registered under Section

12 of the Securities Exchange Act of 1934 or the issuer of which has ceased to have a class of equity securities held by 500 or more persons or total assets exceeding one million dollars ($1,000,000). An order may be issued under this paragraph without notice or hearing if the facts on which it is based are stated in a notice or supplemental notice filed pursuant to subdivision (b) or are stated in a certificate filed with the Securities and Exchange Commission pursuant to Section 12(g)(4) of the Securities Exchange Act of 1934; otherwise, the order shall be issued only as provided in paragraph (2) of this subdivision.

SEC. 2. Section 25211 of the Corporations Code is amended to read:

25211. (a) The application for a certificate as a broker-dealer shall be accompanied by the consent to service of process specified in Section 25240 and, unless filed pursuant to subdivision (b), shall contain such information in such detail relating to the applicant and any persons associated with him or her as the commissioner may by rule require.

(b) A broker-dealer registered under the Securities Exchange Act of 1934 who is a member of the New York Stock Exchange, the American Stock Exchange, the Pacific Stock Exchange, or the National Association of Securities Dealers, and who has not had any certificate as a broker-dealer, investment adviser or agent denied or revoked under this law or any predecessor statute, may be licensed by notification pursuant to this subdivision by filing with the commissioner an application setting forth the following information in such form and detail as the commissioner may by rule require:

(1) Such information as is necessary to identify the broker-dealer and its offices in this state, and the location of its records and principal office.

(2) Such information as is necessary to establish that the broker-dealer meets the requirements for licensure by notification under this subdivision.

(3) The consent to service of process specified in Section 25240

(4) Such information as the commissioner may require as to the jurisdictions in which the broker-dealer is licensed or registered and as to the nature of the business conducted by the broker-dealer.

(c) Unless a proceeding has been instituted under Section 25212, a certificate under subdivision (b) shall become effective on the third business day after the application is filed with the commissioner or upon the day the certificate is issued, whichever first occurs. However, the commissioner may by order delay effectiveness for a period not exceeding 15 business days (or for an additional period with the consent of the applicant) if the commissioner believes that the delay is necessary in the public interest to determine if a proceeding should be instituted under Section 25212. The commissioner may by rule or order waive that provision of subdivision (b) which precludes application thereunder by a person who has had a certificate denied or revoked under this law or any predecessor statute if the commissioner finds the waiver to be in the

public interest. The commissioner, after appropriate notice and opportunity for hearing in accordance with the provisions of the Administrative Procedure Act, Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, may by rule or order disqualify a self-regulatory organization specified in subdivision (b) from the provisions thereof. The commissioner may by rule establish standards or criteria pursuant to which disqualification may be made and he or she may disqualify upon a finding that the self-regulatory organization fails substantially to comply with those standards or criteria. Such disqualification by the commissioner shall not affect a certificate which has become effective pursuant to this subdivision prior to the effective date of that rule or order of disqualification but each person licensed pursuant to subdivision (b) upon the basis of membership in that organization shall, within 90 days after the effective date of that rule or order, or such additional time as the commissioner may allow, file with the commissioner a complete and current application in the form required pursuant to subdivision (a). If a broker-dealer licensed pursuant to subdivision (b) ceases to meet the qualifications for licensing pursuant to that subdivision, he shall, within 10 days after such event, file with the commissioner a complete and current application in the form required pursuant to subdivision (a)

(d) An application for a certificate as a broker-dealer, with respect to a broker-dealer to be formed or organized, may be made by a licensed broker-dealer to which the broker-dealer to be formed or organized is to be the successor. The application shall contain such information in such detail relating to the applicant and to the successor and any person associated with the applicant or the successor as the commissioner may by rule require. The application shall become effective and the successor may transact business as a broker-dealer 30 days after the receipt of the application by the commissioner or within such shorter period of time as the commissioner may determine, unless an order has been entered under Section 25212 denying a certificate to the successor or a proceeding looking toward such an order has been instituted under that section. The certificate shall terminate on the 45th day after the effective date thereof, unless prior thereto the successor shall, in accordance with such rules as the commissioner may prescribe, adopt the application as its own and file the consent to service of process specified in Section 25240

SEC. 3 Section 25213 of the Corporations Code is amended to read:

25213. The commissioner may, after appropriate notice and opportunity for hearing, by order censure, or suspend for a period not exceeding 12 months, or bar from any position of employment, management or control of any broker-dealer or investment adviser, any officer, director, partner, agent, employee of, or person performing similar functions for, a broker-dealer, if the commissioner finds that such censure, suspension or bar is in the

public interest and that such person has committed any act or omission enumerated in subdivision (a), (e) or (f) of Section 25212 or has been convicted of, or pled nolo contendere to, any offense or been held liable in any civil action specified in subdivision (b) of Section 25212, or is enjoined from any act, conduct or practice specified in subdivision (c) of Section 25212 or is subject to any order specified in subdivision (d) of Section 25212.

SEC. 4. Section 25535 of the Corporations Code is amended to read:

25535. (a) Any person who violates any provision of this law, or who violates any rule or order under this law, shall be liable for a civil penalty not to exceed two thousand five hundred dollars ($2,500) for each violation, which shall be assessed and recovered in a civil action brought in the name of the people of the State of California by the commissioner in any court of competent jurisdiction.

(b) As applied to the penalties for acts in violation of this division, the remedies provided by this section and by other sections of this division are not exclusive, and may be sought and employed in any combination to enforce the provisions of this division.

(c) No action shall be maintained to enforce any liability created under subdivision (a) unless brought before the expiration of four years after the act or transaction constituting the violation.

SEC. 5. Section 25607 of the Corporations Code is amended to read:

25607. (a) Neither the commissioner nor any of the commissioner's assistants, clerks or deputies shall be interested as a director, officer, shareholder, member (other than a member of an organization formed for religious purposes), partner, agent, or employee of any person who, during the period of the official's or employee's association with the Department of Corporations, (1) was licensed or applied for license as a broker-dealer or investment adviser under this division, or (2) applied for or secured the qualification of the sale of securities under this division.

(b) Nothing contained in subdivision (a) of this section shall prohibit the holding or purchasing of any securities by any assistant, clerk, or deputy in accordance with such rules as the commissioner shall adopt for the purpose of protecting the public interest and avoiding conflicts of interest.

(c) Nothing contained in subdivision (a) shall prohibit the holding or purchasing of any securities by the commissioner if (1) that security is held or purchased through a management account or trust administered by a bank or trust company authorized to do business in this state which has sole investment discretion regarding the holding, purchase, and sale of securities, (2) the commissioner did not, directly or indirectly, advise, counsel, command, or suggest the holding, purchase, or sale of any such security or furnish any information relating to such security to the bank or trust company, and (3) the account or trust does not at any time have more than 10 percent of its total assets invested in the securities of any one issuer

or hold more than 5 percent of the outstanding shares or units of any class of securities of any one issuer. The commissioner shall report to the Attorney General not less often than quarterly all holdings, purchases, and sales of securities by him or her as authorized in this subdivision, which reports shall be retained by the Attorney General as public documents. This subdivision shall not apply, however, to securities held or purchased by the commissioner which are exempt from the qualification requirements of Sections 25110, 25120, and 25130 by virtue of Section 25100, provided that the holding or purchasing of such securities is in accordance with rules adopted for the purpose of protecting the public interest and avoiding conflicts of interest.

SEC. 6. Section 25608 of the Corporations Code is amended to read:

25608. (a) The commissioner shall charge and collect the fees fixed in this section. All fees charged and collected under this section shall be transmitted to the State Treasurer at least weekly, accompanied by a detailed statement thereof and shall be credited to the General Fund.

(b) The fee for filing an application for a negotiating permit under subdivision (c) of Section 25102 is fifty dollars ($50).

(c) The fee for filing a notice pursuant to clause 5 of subdivision (h) of Section 25102 and the fee for filing a notice pursuant to paragraph (4) of subdivision (f) of Section 25102, in addition to the fee prescribed in that clause, if applicable, shall be determined based on the value of the securities proposed to be sold in the transaction for which the notice is filed and in accordance with subdivision (g), and shall be as follows:

Value of Securities Proposed to be Sold	Filing Fee
$25,000 or less	$ 25
$25,001 to $100,000	$ 35
$100,001 to $500,000	$ 50
$500,001 to $1,000,000	$150
Over $1,000,000	$300

(d) The fee for filing an application for designation of an issuer pursuant to subdivision (k) of Section 25100 is fifty dollars ($50).

(e) The fee for filing an application for qualification of the sale of securities by notification under Section 25112 or by permit under Section 25113 (except applications for qualification by permit of the sale of any guarantee of any security, the fees for which applications are fixed in subdivision (k)) is one hundred dollars ($100) plus one-tenth of 1 percent of the aggregate value of the securities sought to be sold in this state up to a maximum aggregate fee of one thousand seven hundred fifty dollars ($1,750).

(f) The fee for filing an application for qualification of the sale of securities by coordination under Section 25111 is one hundred dollars

($100) plus one-tenth of 1 percent of the aggregate value of the securities sought to be sold in this state up to a maximum aggregate fee of one thousand five hundred fifty dollars ($1,550).

(g) For the purpose of determining the fees fixed in subdivisions (c) and (f):

(1) The value of the securities shall be the price at which the company proposes to sell the securities, or the value, as alleged in the application, or the actual value, as determined by the commissioner, of the consideration (if other than money) to be received in exchange therefor, or of the securities when sold, whichever is greater.

(2) Interim or voting trust certificates shall have a value equal to the aggregate value of the securities to be represented by the interim or voting trust certificates.

(3) The value of a warrant or right to purchase or subscribe to another security of the same or another issuer shall be an amount equal to the consideration to be paid for that warrant or right plus an amount equal to the consideration to be paid upon purchase of the additional securities, provided that if the latter amount is not determinable at the time of qualification, that amount shall be the then value of the additional securities as determined by the commissioner.

(4) In the case of a share dividend where the shareholders are given an option to accept either cash or additional shares of common stock, the value of the securities to be sold shall be the maximum amount of cash which would be payable in the event that all shareholders elected to accept cash

(h) The fee for filing an application for qualification of the sale of securities by permit under Section 25121 is:

(1) One hundred dollars ($100) in connection with any change (including any stock split or reverse stock split or stock dividend, except a stock dividend where the shareholders are given an option to accept either cash or additional shares of common stock) in the rights, preferences, privileges, or restrictions of or on outstanding securities,

(2) One hundred dollars ($100) plus one-tenth of 1 percent of the value, as alleged in the application, or the actual value, as determined by the commissioner, of the consideration to be received in exchange therefor, up to a maximum aggregate fee of one thousand seven hundred fifty dollars ($1,750), in any exchange of securities by the issuer with its existing security holders exclusively, or in any exchange in connection with any merger or consolidation or purchase of corporate assets in consideration of the issuance of securities.

(i) The fee for filing an application for qualification of the sale of securities by notification under Section 25131 shall be sixty dollars ($60)

(j) The fee for an application for the removal of any condition under Section 25141 is fifty dollars ($50).

(k) The fee for filing any application for a permit to execute or issue any guarantee of any security is fifty dollars ($50).

(*l*) The fee for acting as escrow holder for securities under Sec-

tion 25149 is fifty dollars ($50). In addition, a fee of two dollars and fifty cents ($2.50) shall be paid for the deposit with the commissioner of each new certificate or other document resulting from a transfer in escrow.

(m) The fee for filing an application for an order (1) consenting to the transfer in escrow of securities, (2) consenting to the transfer of securities subject to any condition imposed by the commissioner requiring the commissioner's consent to the transfer, or (3) consenting to the transfer of securities subject to a legend stamped or printed on the certificates evidencing the securities pursuant to subdivision (h) of Section 25102, is ten dollars ($10) for each transferor.

(n) The filing fee for an amendment to an application filed after the effective date of the qualification of the sale of securities is fifty dollars ($50) plus any additional fee which would have been required to be paid with the original application for qualification of the sale of securities under this section if the matters set forth in the amendment had been included in the original application.

(o) (1) The fee for filing an application for a broker-dealer certificate under Section 25211 is three hundred dollars ($300).

(2) Each broker-dealer shall pay to the commissioner its pro rata share of all costs and expenses, reasonably incurred in the administration of the broker-dealer program under this division, as estimated by the commissioner for the ensuing year and any deficit actually incurred or anticipated in the administration of the program in the year in which the assessment is made. The pro rata share shall be the proportion which the broker-dealer's number of agents and offices in this state bears to the aggregate number of broker-dealer offices and agents in this state as shown by the annual reports to the commissioner. The pro rata share shall not include the costs of any examinations, audit, or investigation provided for in subdivision (r), unless they cannot be collected from the licensee examined, audited, or investigated.

(3) On or before the 30th day of May in each year, the commissioner shall notify each broker-dealer by mail of the amount assessed and levied against it and that amount shall be paid within 20 days thereafter. If payment is not made within 20 days, the commissioner shall assess and collect a penalty in addition to the assessment, of 1 percent of the assessment for each month or part of a month that the payment is delayed or withheld.

(4) In determining the amount assessed, the commissioner shall consider all appropriations from the General Fund for the support of this division and all reimbursements provided for in this division.

(5) If a broker-dealer fails to pay the assessment on or before the 30th day of June following the day upon which payment is due, the commissioner may by order summarily suspend or revoke the certificate issued to such broker-dealer. If, after such an order is made, a request for hearing is filed in writing and a hearing is not held within 60 days thereafter, the order is deemed rescinded as of its effective

date. During any period when its certificate is revoked or suspended, a broker-dealer shall not conduct business pursuant to this division except as may be permitted by order of the commissioner; provided, however, that the revocation, suspension, or surrender of a certificate shall not affect the powers of the commissioner as provided in this division.

(p) The commissioner may by rule fix a fee of not to exceed twenty-five dollars ($25) for the filing of a notice or report required by rule adopted pursuant to subdivision (b) of Section 25210.

(q) The fee for filing an application for an investment adviser under Section 25231 is two hundred fifty dollars ($250), and payment of this amount shall keep the certificate, if granted, in effect during the calendar year during which it is granted, and if that year is an even-numbered year during the following calendar year. Every investment adviser who has secured from the commissioner a certificate shall, in order to keep such certificate in effect for an additional two-year period, pay a renewal fee of two hundred fifty dollars ($250) on or before the 15th day of December preceding the additional period.

(r) The fee for any examination, audit, or investigation is the actual amount of the salary or other compensation paid to the persons making the examination, audit, or investigation plus the actual amount of expenses including overhead reasonably incurred in the performance of the work.

(s) The fee for any hearing held by the commissioner pursuant to Section 25142 shall be the sum determined by the commissioner to cover the actual expense of noticing and holding the hearing.

(t) The commissioner may fix by rule a reasonable charge for any publications issued under his or her authority. The charges shall not apply to reports of the commissioner in the ordinary course of distribution.

(u) The fee for filing an offer under subdivision (b) of Section 25507 shall be the amount of filing fee payable under subdivision (e), (f), (h) or (i) of this section if an application had been filed to qualify the transaction in which the securities upon which the offer is to be made were sold in violation of the qualification provisions of this law.

(v) The fee for filing an application for exemption pursuant to subdivision (*l*) of Section 25100 is two hundred fifty dollars ($250).

(w) The commissioner may by rule require payment of a fee for filing a notice or report required by a rule adopted pursuant to Section 25105. The fee required in connection with a transaction as defined by such rule shall not exceed the fees specified in subdivision (c) based on the value of the securities sold, but the commissioner may permit a single notice for more than one transaction.

SEC. 7. Section 31402 of the Corporations Code is amended to read:

31402. If in the opinion of the commissioner the offer of any franchise is subject to registration under this law and it is being, or it has been, offered for sale without the offer first being registered,

the commissioner may order the franchisor or offeror of that franchise to desist and refrain from the further offer or sale of that franchise unless and until the offer has been duly registered under this law. If, after such an order has been made, a request for a hearing is filed in writing within one year from the date of service of the order by the person to whom the order was directed, a hearing shall be held 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 commissioner shall have all of the powers granted under that chapter. Unless that hearing is commenced within 15 business days after the request is made (or the person affected consents to a later date), the order shall be deemed rescinded.

If that person fails to file a written request for a hearing within one year from the date of service of the order, the order shall be deemed a final order of the commissioner and shall not be subject to review by any court or agency, notwithstanding Section 31501

SEC. 8 Section 31405 is added to the Corporations Code, to read:

31405 (a) Any person who violates any provision of this law, or who violates any rule or order made under this law, shall be liable for a civil penalty not to exceed two thousand five hundred dollars ($2,500) for each violation, which shall be assessed and recovered in a civil action brought in the name of the people of the State of California by the commissioner in any court of competent jurisdiction.

(b) As applied to the penalties for acts in violation of this division, the remedies provided by this section and by other sections of this division are not exclusive, and may be sought and employed in any combination to enforce the provisions of this division.

(c) No action shall be maintained to enforce any liability created under subdivision (a) unless brought before the expiration of four years after the act or transaction constituting the violation.

CHAPTER 947

An act to repeal Chapter 2 (commencing with Section 24200) of Division 20 of the Health and Safety Code, and to add Part 10 (commencing with Section 9000) to Division 5 of the Labor Code, relating to safety in employment.

[Approved by Governor September 25, 1985 Filed with Secretary of State September 26, 1985]

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

SECTION 1. Chapter 2 (commencing with Section 24200) of Division 20 of the Health and Safety Code is repealed.

SEC. 2. Part 10 (commencing with Section 9000) is added to Division 5 of the Labor Code, to read.

PART 10. USE OF CARCINOGENS

CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS

9000. This part shall be known and may be cited as the Occupational Carcinogens Control Act of 1976.

9001. The purpose of this part is to clarify and strengthen the provisions of state law applicable to the use of carcinogens in California. It is the intent of the Legislature to provide for effective implementation of the provisions of this part.

9002. The following definitions shall govern the construction of this part. Additionally, except where the context otherwise requires, the definitions contained in Part 1 (commencing with Section 6300) shall also be applicable to this part.

9003. "Affected employee" means an employee who, as part of his or her employment, is involved in the use of a carcinogen, or an employee with respect to whom there is a substantial probability that he or she will become so involved as the result of his or her employer's use of a carcinogen.

9004. "Carcinogen" means and includes the following recognized cancer-causing substances for which standards have been adopted pursuant to Chapter 3 (commencing with Section 9020):

(a) Any of the following substances and any compound, mixture, or product containing these substances:

(1) 2-acetylaminofluorene.
(2) 4-aminodiphenyl.
(3) Benzidine and its salts.
(4) Bis(chloromethyl) ether.
(5) 3,3'-dichlorobenzidine and its salts.
(6) 4-dimethylaminoazobenzene.
(7) Beta-naphthylamine.
(8) 4-nitrodiphenyl.
(9) N-nitrosodimethylamine.
(10) Beta-propriolactone.
(11) Methyl chloromethyl ether.
(12) Alpha-naphthylamine.
(13) 4,4'-methylene-(bis)2-chloroaniline.
(14) Ethyleneimine.

(b) Asbestos, including chrysotile, amosite, crocidolite, tremolite, anthophyllite, and actinolite.

(c) Vinyl chloride.

(d) Any other substance for which standards are adopted and in effect due to cancer-causing properties and any compound, mixture, or product containing such a substance, except as specifically exempted from the standards.

9005. "Division" means the Division of Occupational Safety and Health.

9006. "Employer" means any of the following:

(a) The state and every state agency.

(b) Each county, city, district, and all public and quasi-public corporations and public agencies therein.

(c) Every person, including any public service corporation, which has any natural person in service.

(d) The legal representative of any deceased employer.

9007. "Standards" means standards and orders adopted by the standards board pursuant to Chapter 6 (commencing with Section 140) of Division 1.

9008. "Standards board" means the Occupational Safety and Health Standards Board.

9009. "Use" means any use of a carcinogen by an employer, including, but not limited to, the following:

(a) Manufacture of a carcinogen, industrial uses thereof, or formation of a carcinogen as a result of a chemical reaction.

(b) Sale or other transfer of a carcinogen.

(c) Storage or disposal of a carcinogen.

(d) Utilization of a carcinogen for research.

(e) Transport of a carcinogen. The State Department of Health Services and the division shall have concurrent jurisdiction with any federal agency to protect affected employees of interstate carriers, including rail carriers, while in this state, as provided in this part or as authorized by other provisions of state law.

CHAPTER 2. EXEMPTIONS

9015. Except where in conflict with Section 142.3, or other applicable provisions of law, the standards board may exempt from the provisions of this part and its standards uses of carcinogens which it determines have been shown by a preponderance of the evidence to present no substantial threat to employee health and which may include, but need not be limited to, any of the following:

(a) Use of carcinogens specified in subdivision (a) of Section 9004 in operations involving the destructive distillation of carbonaceous materials, such as occurs in coke ovens.

(b) Use of asbestos, except where there is a material risk of substantial and repeated exposure of employees to this carcinogen.

Except as provided in Section 18930 of the Health and Safety Code, the standards board shall adopt regulations for the implementation of the provisions of this section.

CHAPTER 3. STANDARDS AND ADMINISTRATION

9020. (a) Pursuant to Chapter 6 (commencing with Section 140) of Division 1, the standards board shall adopt standards for carcinogens at least as restrictive as the federal requirements for use of carcinogens promulgated under Section 6 of the Occupational Safety and Health Act of 1970 (P.L. 91-596), as these federal requirements may be revised from time to time. Within six months after the effective date of any change in the federal requirements,

the standards board shall amend its standards as necessary to comply with this subdivision.

(b) It is the intent of the Legislature that the state shall exercise strong leadership in preventing employees, employers, and other persons from being exposed to carcinogens. In this connection, it is the further intent of the Legislature that the standards board adopt standards for substances as to which there exists a preponderance of evidence of carcinogenicity, but for which the federal government has not yet promulgated requirements specified in subdivision (a). The division shall determine the necessity for the standards and shall develop and present the proposed standards to the standards board pursuant to Section 147.1.

9021. All standards relating to the use of carcinogens which are in effect on January 1, 1986, including standards set forth in Sections 5208, 5209, and 5210 of Title 8 of the California Administrative Code, shall remain in effect until amended or repealed by the standards board.

9022. The division shall have primary responsibility for enforcement of standards relating to carcinogens. However, the State Department of Health Services shall assist the division in the enforcement of the standards, in the manner prescribed by this chapter, and as shall be further defined by a written agreement between the State Department of Health Services and the department, pursuant to Section 144.

CHAPTER 4. REPORTING

9030. The standards board shall adopt one or more standards requiring each employer which uses any carcinogen, including asbestos and vinyl chloride, to submit a written report regarding the use or any incident which results in the release of a potentially hazardous amount of a carcinogen into any area where employees may be exposed. The reporting requirements set forth in Sections 5209 and 5210 of Title 8 of the California Administrative Code on January 1, 1986, shall remain in effect until amended or repealed by the standards board, and any subsequent reporting requirements shall provide for reports which are at least as detailed as those required on that date. For asbestos and vinyl chloride, the standards board shall adopt a standard which requires each employer who uses vinyl chloride or asbestos to report in a manner similar to the reporting required pursuant to Section 5209 of Title 8 of the California Administrative Code.

9031. The division shall transmit a copy of each report specified in Section 9030 to any bargaining representatives, and other representatives known to the division, of affected employees of the reporting employer. A copy of each report shall be posted by the employer in the location or locations where the carcinogen is used, which shall be conspicuous to affected employees, as shall be provided in the standards.

9032. The division shall make every effort to ascertain the identities of existing users of carcinogens and to notify, inform, and educate them about the requirements of this part. The division shall utilize all appropriate means of communication and education, including direct mailings to employers, the use of courses, workshops, and seminars, advertising in mass media, trade and employee publications, and professional and scientific journals, contact with trade associations, employee representatives, and professional and scientific societies, and cooperation with other governmental agencies to inform affected employees, employers, and the public of the requirements of this part.

CHAPTER 5. MEDICAL EXAMINATIONS

9040. Every employer using carcinogens shall provide for medical examinations of affected employees where required by standards adopted pursuant to subdivision (b) of Section 142.3. The standards board shall continue to require medical examinations in at least as effective a manner as provided in Sections 5208, 5209, and 5210 of Title 8 of the California Administrative Code on January 1, 1986.

CHAPTER 6. INSPECTIONS

9050. The division shall establish priorities for the performance of inspections of premises for which uses have been reported pursuant to Section 9030 and shall perform as many of these inspections as possible within the limits of the resources available to it for that purpose.

9051. If an authorized representative of the division determines on the basis of an inspection that an employer is using a carcinogen in violation of the standards pertaining to its use, he or she shall immediately notify the employer and affected employees.

9052. Upon request of any employer or any employee, or upon its own initiative, the OSHA Consultation Unit of the department shall provide consultation services regarding the use of a carcinogen and may offer educational programs to inform employers and employees of the provisions of this part.

CHAPTER 7. PENALTIES

9060. The civil penalties prescribed by Chapter 4 (commencing with Section 6423) of Part 1 shall be applicable to violations of standards and special orders regulating the use of carcinogens, except as modified by the following:

(a) A civil penalty assessed against an employer because of failure to report, as required by standards specified in Section 9030, shall be not less than five hundred dollars ($500).

(b) A civil penalty assessed against an employer for a serious

violation, as defined in Section 9061, involving use of a carcinogen in violation of standards or special orders, except as provided by subdivision (d) and by Section 6429, shall be in the amount of two thousand dollars ($2,000).

(c) A civil penalty assessed pursuant to Section 6429 for repeated violations of standards or special orders specified in subdivision (a) shall be not less than five thousand dollars ($5,000).

(d) A civil penalty assessed pursuant to Section 6429 for repeated serious violations of standards or special orders specified in subdivision (b) shall be not less than ten thousand dollars ($10,000).

The maximum limitations on civil penalties specified in Chapter 4 (commencing with Section 6423) of Part 1 shall be applicable to civil penalties for which the minimum amount is prescribed by subdivision (a), (c), or (d). Nothing in this section shall supersede any provision of law prescribing criminal offenses or penalties.

9061. (a) For purposes of this part, "serious violation" shall have the meaning specified in Section 6432 and, except as provided in subdivision (b), shall additionally include any violation of a standard or special order respecting the use of a carcinogen.

(b) A violation of a standard or special order respecting the use of a carcinogen shall not, be a "serious violation" if the employer did not, and could not, with the exercise of reasonable diligence, know of the presence of the violation or if the violation is minor and resulted in no substantial health hazard, as determined by the division.

CHAPTER 948

An act to amend Sections 1653, 1698, and 1699 of, and to add Section 1699.4 to, the Code of Civil Procedure, relating to support.

[Approved by Governor September 25, 1985 Filed with Secretary of State September 26, 1985]

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

SECTION 1. Section 1653 of the Code of Civil Procedure is amended to read:

1653. As used in this title unless the context requires otherwise:

(a) "Court" means the superior court of this state and when the context requires means the court of any other state as defined in a substantially similar reciprocal law.

(b) "Duty of support" means a duty of support whether imposed or imposable by law or by order, decree, or judgment of any court whether interlocutory or final or whether incidental to a proceeding for dissolution of marriage, judgment of nullity, or for legal separation, or to an action for divorce, separation, separate maintenance, or otherwise and includes the duty to pay arrearages

of support past due and unpaid.

(c) "Governor" includes any person performing the functions of Governor or the executive authority of any state covered by this title.

(d) "Initiating state" means a state in which a proceeding pursuant to this or a substantially similar reciprocal law is commenced. "Initiating court" means the court in which a proceeding is commenced.

(e) "Law" includes both common and statutory law.

(f) "Obligee" means a person including a state or political subdivision to whom a duty of support is owed or a person including a state or political subdivision that has commenced a proceeding for enforcement of an alleged duty of support. It is immaterial if the person to whom a duty of support is owed is a recipient of public assistance.

(g) "Obligor" means any person owing a duty of support or against whom a proceeding for the enforcement of a duty of support is commenced.

(h) "Prosecuting attorney" means the public official in the appropriate place who has the duty to enforce criminal laws relating to the failure to provide for the support of any person.

(i) "Responding state" means a state in which any responsive proceeding pursuant to the proceeding in the initiating state is commenced. "Responding court" means the court in which the responsive proceeding is commenced.

(j) "State" includes a state, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any foreign jurisdiction in which this or a substantially similar law or procedure is in effect or which has established enforcement procedures with or without court participation under a treaty, the application of which is extended to this state.

(k) "Support order" means any judgment, decree, or order of support in favor of an obligee whether temporary or final, or subject to modification, revocation, or remission, regardless of the kind of action or proceeding in which it is entered.

(*l*) "Register" means to file in the Registry of Foreign Support Orders.

(m) "Registering court" means any court of this state in which a support order of a rendering state is registered.

(n) "Rendering state" means a state in which the court has issued a support order for which registration is sought or granted in the court of another state.

(o) "Rendering court" means a court which has issued a support order for which registration is sought.

(p) "Foreign support order" includes a foreign order for the assignment of wages for the satisfaction of a support order.

SEC. 2. Section 1698 of the Code of Civil Procedure is amended to read:

1698. The obligee may register a foreign support order or a foreign order for the assignment of wages for support in a court of

this state in the manner, with the effect, and for the purposes provided in this chapter.

SEC. 3. Section 1699 of the Code of Civil Procedure is amended to read:

1699. (a) Upon registration the registered foreign support order shall be treated in the same manner as a support order issued by a court of this state. It has the same effect and is subject to the same procedures, defenses, and proceedings for reopening, vacating, or staying as a support order of this state and may be enforced and satisfied in like manner. Upon registration, a foreign order for the assignment of wages for support shall be treated for all purposes in the same manner as an order for assignment of wages entered pursuant to Section 4701 or 4801.6 of the Civil Code.

(b) The obligor has 20 days after the mailing or other service of notice of the registration in which to petition the court to vacate the registration or for other relief. If the obligor does not so petition the registered order is confirmed.

(c) At the hearing to enforce the registered order the obligor may present only matters that would be available to the obligor as defenses in an action to enforce a support judgment. If the obligor shows to the court that an appeal from the order is pending or will be taken or that a stay of execution has been granted the court shall stay enforcement of the order until the appeal is concluded, the time for appeal has expired, or the order is vacated, upon satisfactory proof that the obligor has furnished security for payment of the support ordered as required by the rendering state. If the obligor shows to the court any ground upon which enforcement of a support order of this state may be stayed the court shall stay enforcement of the order for an appropriate period if the obligor furnishes the same security for payment of the support ordered that is required for a support order of this state.

SEC. 4. Section 1699.4 is added to the Code of Civil Procedure, to read:

1699.4. In any case in which a support order issued by a court of this state is registered in the court of a county other than that of the rendering court, the obligee shall serve a copy of any subsequent modification of the order on the rendering court, by mail.

CHAPTER 949

An act to amend Section 1050 of, and to repeal and add Section 1050.5 of, the Penal Code, relating to criminal proceedings.

[Approved by Governor September 25, 1985 Filed with Secretary of State September 26, 1985]

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

SECTION 1. Section 1050 of the Penal Code is amended to read:

1050. (a) The welfare of the people of the State of California requires that all proceedings in criminal cases shall be set for trial and heard and determined at the earliest possible time. To this end the Legislature finds that the criminal courts are becoming increasingly congested with resulting adverse consequences to the welfare of the people and the defendant. Excessive continuances contribute substantially to this congestion and cause substantial hardship to victims and other witnesses. Continuances also lead to longer periods of presentence confinement for those defendants in custody and the concomitant overcrowding and increased expenses of local jails It is therefore recognized that the people, the defendant, and the victims and other witnesses have the right to an expeditious disposition, and to that end it shall be the duty of all courts and judicial officers and of all counsel, both the prosecution and the defense, to expedite these proceedings to the greatest degree that is consistent with the ends of justice. In accordance with this policy, criminal cases shall be given precedence over, and set for trial and heard without regard to the pendency of, any civil matters or proceedings.

(b) To continue any hearing in a criminal proceeding, including the trial, a written notice shall be filed and served on all parties to the proceeding at least two court days before the hearing sought to be continued, together with affidavits or declarations detailing specific facts showing that a continuance is necessary. A party shall not be deemed to have been served within the meaning of this section until that party actually has received a copy of the documents to be served, unless the party, after receiving actual notice of the request for continuance, waives the right to have the documents served in a timely manner. Regardless of the proponent of the motion, the prosecuting attorney shall notify people's witnesses and the defense attorney shall notify defense's witnesses of the notice of motion, the date of the hearing, and the witnesses' right to be heard by the court.

(c) Notwithstanding subdivision (b), a party may make a motion for a continuance without complying with the requirements of that subdivision. However, unless the moving party shows good cause for the failure to comply with those requirements, the court may impose sanctions as provided in Section 1050.5.

(d) When a party makes a motion for a continuance without complying with the requirements of subdivision (b), the court shall hold a hearing on whether there is good cause for the failure to comply with those requirements. At the conclusion of the hearing the court shall make a finding whether good cause has been shown and, if it finds that there is good cause, shall state on the record the facts proved that justify its finding. A statement of the finding and a statement of facts proved shall be entered in the minutes. If the moving party is unable to show good cause for the failure to give

notice, the motion for continuance shall not be granted.

(e) Continuances shall be granted only upon a showing of good cause. Neither the convenience of the parties nor a stipulation of the parties is in and of itself good cause.

(f) At the conclusion of the motion for continuance, the court shall make a finding whether good cause has been shown and, if it finds that there is good cause, shall state on the record the facts proved that justify its finding. A statement of facts proved shall be entered in the minutes.

(g) When deciding whether or not good cause for a continuance has been shown, the court shall consider the general convenience and prior commitments of all witnesses, including peace officers. Both the general convenience and prior commitments of each witness also shall be considered in selecting a continuance date if the motion is granted. The facts as to inconvenience or prior commitments may be offered by the witness or by a party to the case.

(h) Upon a showing that the attorney of record at the time of the defendant's first appearance in the superior court is a Member of the Legislature of this state and that the Legislature is in session or that a legislative interim committee of which the attorney is a duly appointed member is meeting or is to meet within the next seven days, the defendant shall be entitled to a reasonable continuance not to exceed 30 days.

(i) A continuance shall be granted only for that period of time shown to be necessary by the evidence considered at the hearing on the motion. Whenever any continuance is granted, the court shall state on the record the facts proved that justify the length of the continuance, and those facts shall be entered in the minutes.

(j) Whenever it shall appear that any court may be required, because of the condition of its calendar, to dismiss an action pursuant to Section 1382, the court must immediately notify the Chairman of the Judicial Council.

(k) This section shall not apply when the preliminary examination is set on a date less than 10 court days from the date of the defendant's arraignment on the complaint, and the prosecution or the defendant moves to continue the preliminary examination to a date not more than 10 court days from the date of the defendant's arraignment on the complaint.

SEC. 2. Section 1050.5 of the Penal Code is repealed.

SEC. 3. Section 1050.5 is added to the Penal Code, to read:

1050.5. (a) When, pursuant to subdivision (c) of Section 1050, the court imposes sanctions for failure to comply with the provisions of subdivision (b) of Section 1050, the court may impose one or both of the following sanctions when the moving party is the prosecuting or defense attorney:

(1) A fine not exceeding one thousand dollars ($1,000) upon counsel for the moving party.

(2) The filing of a report with an appropriate disciplinary committee.

(b) The authority to impose sanctions provided for by this section shall be in addition to any other authority or power available to the court.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution 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 950

An act to amend Sections 15 and 50 of, and to add Section 15.3 to, the Bighorn Mountains Water Agency Law (Chapter 1175 of the Statutes of 1969), relating to the Bighorn Mountains Water Agency.

[Approved by Governor September 25, 1985 Filed with Secretary of State September 26, 1985]

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

SECTION 1. Section 15 of the Bighorn Mountains Water Agency Law (Chapter 1175 of the Statutes of 1969) is amended to read:

Sec. 15. The Bighorn Mountains Water Agency, which is incorporated as provided in this act, has all of the following powers:

1. To have perpetual succession.

2. To sue and be sued, except as otherwise provided in this act or by law, in all actions and proceedings in all courts and tribunals of competent jurisdiction.

3. To adopt a seal and alter it at pleasure.

4. To take by grant, purchase, gift, devise, or lease, hold, use, enjoy, and to lease or dispose of real and personal property of every kind, within or without the Bighorn Mountains Water Agency.

5. To acquire, or contract to acquire, waterworks or a waterworks system, waters, water rights, lands, rights and privileges, and construct, maintain, and operate conduits, pipelines, reservoirs, works, machinery, and other property useful or necessary to store, convey, supply, or otherwise make use of water for a waterworks plant or system for the benefit of the agency, and to complete, extend, add to, repair, or otherwise improve any waterworks or waterworks system acquired by it as authorized.

6. To construct, maintain, improve, and operate public recreational facilities appurtenant to any water reservoir operated or contracted to be operated by the Bighorn Mountains Water Agency, and to provide, by ordinance, regulations binding upon all persons to govern the use of those facilities, including regulations imposing reasonable charges for the use thereof. Violation of any such regulation is a misdemeanor.

7. To lease of and from any person, firm, or public or private

corporation, or public agency, with the privilege of purchasing or otherwise, all or any part of water storage, transportation, or distribution facilities, existing waterworks or a waterworks system, and to carry on and conduct waterworks or a waterworks system; also to sell water under the control of the agency to cities, and to other public corporations and public agencies within the agency, and to the inhabitants of those cities and of other territory within the agency, and to persons, corporations, and other private agencies within the agency for use within the agency without any preference; and it may, whenever the board finds that there is a surplus of water above that which may be required by consumers within the agency, sell or otherwise dispose of surplus water to any persons, firms, public or private corporations or public agencies, or other consumers.

8. The agency may supply and deliver water to property not subject to agency taxes at special rates, terms, and conditions as determined by the board for that service.

9. To exercise the right of eminent domain to take any property necessary to supply the agency, or any portion thereof, with water In lieu of compensation and damages for the taking or damaging of any public utility facility which is required to be replaced by the public utility to provide service to the public equivalent to that provided by the facility taken or damaged, the agency shall pay to the public utility owning the facility its actual cost incurred to replace in kind the facility so taken or damaged, less property deductions for depreciation, together with its actual cost incurred to rearrange or rehabilitate the facilities of the public utility not taken or damaged, but required to be rearranged or rehabilitated by reason of the taking or damaging.

10. To issue bonds, borrow money, and incur indebtedness as authorized by law or in this act; also to refund (by the issuance of the same obligations following the same procedure) or retire any indebtedness or lien that may exist against the agency or property thereof; also to issue warrants to pay the formation expenses of the agency, which warrants may bear interest at a rate not exceeding 6 percent per annum from the date of issue until funds are available to pay the warrants, and which formation expenses may include fees of attorneys and others employed to conduct the formation proceedings.

11. To issue negotiable promissory notes bearing interest at a rate not exceeding 7 percent per annum; provided, however, that the notes shall be general obligations of the agency payable from revenues and taxes in the same manner as bonds of the agency; and provided further that the maturity shall not be later than five years from the date thereof and that the total aggregate amount of the notes outstanding at any one time may be at least equal to seventy-five thousand dollars ($75,000) in the Bighorn Mountains Water Agency, but shall not otherwise exceed the lesser of either one million five hundred thousand dollars ($1,500,000) or 3 percent of the assessed valuation of the taxable property in the Bighorn Mountains

Water Agency or, if the assessed valuation is not obtainable, 3 percent of the county auditor's estimate of the assessed valuation of the taxable property in the agency evidenced by his or her certificate. Promissory notes issued pursuant to Section 51 may be disregarded in computing the aggregate amount of notes that may be issued pursuant to this subdivision.

12. To cause taxes to be levied, in the manner provided, for the purpose of paying any obligation of the agency, including its formation expenses and any warrants issued therefor.

13. To restrict the use of agency water during any emergency caused by drought, or other threatened or existing water shortage, and to prohibit the wastage of agency water or the use of agency water during those periods, for any purpose other than household uses or such other restricted uses as may be determined to be necessary by the agency; to prohibit the use of water during those periods for specific uses which the agency may, from time to time, find to be nonessential.

14. To prescribe and define, by ordinance, the restrictions, prohibitions, and exclusions referred to in subdivision 13 of this section. Every ordinance relating to the matters referred to in this subdivision shall be in full force and effect immediately upon adoption, but shall be published pursuant to Section 6061 of the Government Code in full in a newspaper of general circulation, printed, published, and circulated in the agency within 10 days after adoption or, if there be no such newspaper, shall be posted within that time in three public places within the agency.

15. To make contracts, employ labor, and do all acts necessary for the full exercise of the above powers.

16. To provide, by ordinance of its board of directors, for the pensioning of officers or employees and the creation of a special fund for the purpose of paying the pensions, and the accumulation of contributions to the fund from the revenues of the agency, the wages of officers or employees, voluntary contributions, gifts, donations, or any source of revenue not inconsistent with the general powers of the board, and to contract with any insurance corporation or any other insurance carrier for the maintenance of a service covering the pension of the officers or employees, and to provide in the ordinance for the terms and conditions under which pensions shall be awarded, and for the time and extent of service of officers or employees before pensions shall be available to them.

17. To acquire, control, distribute, store, spread, sink, treat, purify, reclaim, recapture, and salvage any water, including sewage and storm waters, for the beneficial use and protection of the agency or its inhabitants or the owners of right to water therein.

18. Subject to the limitations in subdivision 9 of this section, to join with one or more public agencies, private corporations, or other persons for the purpose of carrying out any of the powers of the agency and, for that purpose, to contract with the other public agencies, private corporations, or persons for the purpose of

financing acquisitions, constructions, and operations. The contracts may provide for contributions to be made by each party thereto and for the division and apportionment of the expenses of the acquisitions and operations, and the division and apportionment of the benefits, the services and products therefrom, and may provide for any agency to effect the acquisitions and to carry on the operations, and shall provide in the powers and methods of procedure for the agency the method by which the agency may contract. The contracts with other public agencies, private corporations, or persons may contain such other and further covenants and agreements as may be necessary or convenient to accomplish the purposes thereof. The term "public agency," as used in this subdivision, means and includes the United States of America or any department or agency thereof, the State of California or any department or agency thereof, a county, city, public corporation, or other public district of this state. The term "private corporation," as used in this subdivision, means and includes any private corporation organized under the laws of the United States of America or of this or any other state thereof. Contracts include those made with the United States, under the Federal Reclamation Act of June 17, 1902, and all acts amendatory thereof or supplementary thereto or any other act of Congress previously or hereafter enacted permitting cooperation. Any contract with the United States of America or any department or agency thereof, or with any private corporation organized under the laws of the United States of America, by which the agency, or an improvement district thereof, incurs an indebtedness or liability exceeding in any year the income and revenue for that year shall not be executed without the assent of two-thirds of the qualified electors of the agency, or the improvement district thereof, voting at a special election to be held for that purpose, the election to be called and held, so far as practicable, in the same manner as bond elections for the agency. The exact form of the contract need not be available at the the time of the special election, but the (a) purpose of the contract, (b) maximum amount of indebtedness created thereby, (c) maximum term of repayment, and (d) maximum interest rate on the indebtedness shall be known and included in the proposition or measure submitted to the qualified electors of the agency, or the improvement district thereof, at the special election.

19. To commence, maintain, intervene in, defend and compromise, in the name of the agency, or as a class representative of the inhabitants, property owners, taxpayers, or water producers or water users within the agency, or otherwise, and to assume the costs and expenses of any and all actions and proceedings, now or hereafter begun, involving or affecting the ownership or use of water or water rights, used or useful for any purpose, of the agency, or a common benefit to the lands within the agency or its inhabitants.

20. To commence, maintain, intervene in, defend and compromise, in the name of the agency, or as a class representative

of the inhabitants, property owners, taxpayers, water producers or water users within the agency or otherwise, and to assume the costs and expenses of any and all actions or proceedings, now or hereafter begun, to prevent, control, or abate the pollution of water used or useful for any purpose of the agency, or a common benefit to lands within the agency, or to the inhabitants of the agency, or any watershed or basin overlain, in whole or in part, by the agency or which contributes to the water supply of the agency.

21. Distribute water to persons in exchange for ceasing or reducing groundwater extractions and to fix the terms and conditions of any contract under which producers may agree voluntarily to use replenishment water from a nontributary source in lieu of groundwater, and to that end the agency may become a party to such a contract and pay from the agency funds that portion of the cost of the replenishment waters that will encourage the purchase and use of replenishment water in lieu of pumping so long as the persons or property within the agency are directly or indirectly benefited by the resulting replenishment.

22. To issue revenue bonds for any purpose for which general obligation bonds may be issued, and for any purpose for which revenue bonds could be issued under the Revenue Bond Law of 1941 or any other law which by its terms is applicable to this agency.

23 To use the Improvement Act of 1911 (Division 7 (commencing with Section 5000) of the Streets and Highways Code) for the construction of any facilities authorized to be constructed under this act. The powers and duties conferred by the Improvement Act of 1911 on the various boards, officers, and agents of cities shall be exercised by the respective boards, officers, and agents of the Bighorn Mountains Water Agency. In the application of the Improvement Act of 1911 to proceedings instituted by the Bighorn Mountains Water Agency, the terms used in the Improvement Act of 1911 have the following meanings:

(a) "City council" and "council" mean the Board of Directors of the Bighorn Mountains Water Agency.

(b) "Municipality" and "city" mean the Bighorn Mountains Water Agency.

(c) "Clerk" and "city clerk" mean the secretary.

(d) "Superintendent of streets," "street superintendent," and "city engineer" mean the chief engineer of the agency.

(e) "Tax collector" means the county tax collector.

(f) "Treasurer" and "city treasurer" mean the treasurer of the Bighorn Mountains Water Agency.

(g) "Mayor" means the president of the board of directors of the Bighorn Mountains Water Agency.

(h) "Right-of-way" means any parcel of land in, on, under, or through which a right-of-way or easement has been granted to the agency for the purpose of constructing and maintaining any works or improvements of the Bighorn Mountains Water Agency.

Any certificates or documents required to be filed or recorded in

the office of the superintendent of streets or street superintendent shall be filed and recorded in the office of the secretary of the Bighorn Mountains Water Agency.

24. To use the Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500) of the Streets and Highways Code) for the construction of any facilities authorized to be constructed under this act. The powers and duties conferred by the Improvement Bond Act of 1915 on the various boards, officers, and agents of cities or counties shall be exercised by the respective boards, officers, and agents of the Bighorn Mountains Water Agency. In the application of the Improvement Bond Act of 1915 to proceedings instituted by the agency, the terms used in the Improvement Bond Act of 1915 have the following meanings:

(a) "City" means the Bighorn Mountains Water Agency.

(b) "Clerk" means the secretary of the Bighorn Mountains Water Agency.

(c) "Legislative body" means the Board of Directors of the Bighorn Mountains Water Agency.

(d) "Mayor" means the president of the board of directors of the agency.

(e) "Right-of-way" means any parcel of land in, on, under, or through which a right-of-way or easement has been granted to the agency for the purpose of constructing and maintaining any works or improvements of the agency.

(f) "Street superintendent," "superintendent of streets," and "engineer" mean, respectively, the officers or entities designated, from time to time, by the board of directors to perform the duties imposed on the street superintendent, superintendent of streets, and the engineer.

(g) "Tax collector" and "auditor" mean the county tax collector and county auditor, unless otherwise designated by the board of directors.

(h) "Treasurer" means the treasurer of the Bighorn Mountains Water Agency, or the county treasurer if so designated by the board of directors.

Any certificates or documents to be filed or recorded in the office of the superintendent of streets or street superintendent shall be filed and recorded in the office of the secretary of the agency.

25. To prescribe, by ordinance, a system of water system connection charges and, if deemed appropriate by the board of directors, a refunding mechanism through water rates or pursuant to contract.

SEC. 2. Section 15.3 is added to the Bighorn Mountains Water Agency Law (Chapter 1175 of the Statutes of 1969), to read:

Sec. 15.3. In addition to the powers granted in Section 15, the agency may exercise all powers heretofore or hereafter granted to or possessed by county water districts organized and governed under the County Water District Law (Division 12 (commencing with Section 30000) of the Water Code) to finance the acquisition of

waterworks or waterworks systems, waters, water rights, lands, rights or privileges, and may exercise all those powers to fund construction, maintenance, or operation of new waterworks systems constructed after January 1, 1986.

SEC. 3. Section 50 of the Bighorn Mountains Water Agency Law (Chapter 1175 of the Statutes of 1969) is amended to read:

Sec. 50. The agency, by ordinance, may fix, on or before the first day of July in any calendar year, a water standby or availability charge within the agency or in any improvement district thereof to which water is made available by the agency through underground or by surface facilities, whether the water is actually used or not. The standby charge shall not exceed ten dollars ($10) per acre per year for each acre of land within the agency or any improvement district thereof or ten dollars ($10) per year for any parcel of less than one acre. The ordinance fixing a standby charge shall be adopted by the board only after adoption of a resolution setting forth the particular schedule or schedules of charges proposed to be established by ordinance and after two weeks' notice and a public hearing. Notice to all landowners whose property may be made subject to a water standby or availability charge shall be by publication pursuant to Section 6061 of the Government Code and by first-class mail addressed to each person or entity to whom land is assessed, as shown on the last equalized roll of the county, at the address shown on the assessment roll. The ordinance fixing a standby charge may establish schedules varying the charges according to land uses, water uses, and degree of water availability. On or before the third Monday in August, the board shall furnish in writing to the board of supervisors and the county auditor of each affected county a description of each parcel of land within the agency upon which a charge is to be levied and collected for the current fiscal year, together with the amount of standby charge fixed by the district on each parcel of land. The board shall direct that, at the time and in the manner required by law for the levying of taxes for county purposes, the board of supervisors shall levy, in addition to any other tax it levies, a standby charge in the amounts for the respective parcels fixed by the board. All county officers charged with the duty of collecting taxes shall collect agency standby charges with the regular tax payments to the county. The charges shall be collected in the same form and manner as county taxes are collected and shall be paid to the agency. Charges fixed by the agency shall be a lien on all the property benefited thereby. Liens for the charges shall be of the same force and effect as other liens for taxes, and their collection may be enforced by the same means as provided for the enforcement of liens for state and county taxes.

Notwithstanding any other provision, the water standby or availability charge for Improvement District "B" of the agency and the charge for any improvement district of the agency formed after January 1, 1986, shall not exceed thirty dollars ($30) per year for each acre of land within the improvement district, or thirty dollars ($30) per year for any parcel of less than one acre within the improvement district.

CHAPTER 951

An act to amend Sections 14103, 14201.5, 14409, 14454, 14456, 14500, 14501, 14502, 14552, 14820, 14821, 14860, 14862, 14954, 15050, and 15201 of, and to add Section 14563.5 to, the Financial Code, relating to financial institutions.

[Approved by Governor September 25, 1985 Filed with Secretary of State September 26, 1985]

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

SECTION 1. Section 14103 of the Financial Code is amended to read:

14103. The bylaws shall prescribe the manner in which the business of the credit union shall be conducted with reference to the following matters:

(a) The purpose of the credit union.

(b) The qualification for membership.

(c) Determination of the month, time and place of the annual meeting; the manner of conducting meetings; the method by which members shall be notified of meetings; and the number of members which shall constitute a quorum.

(d) The authorized number of directors, the number of directors necessary to constitute a quorum, and the powers and duties of officers elected by the directors.

(e) The membership, powers, and duties of the supervisory committee.

(f) The membership, powers, and duties of the credit committee or if applicable, the general powers, responsibilities and duties of the credit manager.

(g) The manner in which the bylaws may be amended.

SEC. 2. Section 14201.5 of the Financial Code is amended to read:

14201.5. (a) For the purpose of preventing substantial encroachment upon an existing credit union when such encroachment will probably impair the economic feasibility of a 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 14409 of the Financial Code is amended to read:

14409. Every credit union shall:

(a) Obtain adequate surety bond coverage for the treasurer or chief financial officer conditioned upon the honest performance of his or her trust. The minimum principal amount of such bond shall be based on the gross assets of the credit union, according to the following schedule:

Gross assets	Amount of bond
0 to $5,000	$1,000
5,001 to 10,000	2,000
10,001 to 20,000	4,000
20,001 to 30,000	5,000
30,001 to 40,000	8,000
40,001 to 50,000	10,000
50,001 to 75,000	15,000
75,001 to 100,000	20,000
100,001 to 150,000	30,000
150,001 to 200,000	40,000
200,001 to 300,000	50,000
300,001 to 400,000	60,000
400,001 to 500,000	70,000
500,001 to 750,000	85,000
750,001 to 1,000,000	100,000
1,000,001 to 50,000,000	100,000 plus 50,000 for each additional million or fraction thereof of assets over 1,000,000
50,000,001 to 150,000,000	2,500,000 plus 25,000 for each additional million or fraction thereof of assets over 50,000,000
Over 150,000,000	5,000,000

(b) Obtain adequate fidelity bond coverage for each officer and employee having control of or access to funds or securities owned by or pledged with a credit union commensurate with risks involved.

(c) Obtain fidelity bond coverage for its credit manager.

SEC. 4. Section 14454 of the Financial Code is amended to read:

14454. The directors shall hold a meeting of all directors within 10 days after the annual meeting of members pursuant to Section 14804 for the purpose of electing the officers of the credit union as prescribed in Sections 14500 and 14501.

SEC. 5. Section 14456 of the Financial Code is amended to read:

14456. Unless the bylaws expressly reserve any or all of the following duties to the members, the directors have all of the following special duties:

(a) To act upon all applications for membership. The directors may delegate the power to approve applications for new membership to the chairman of a membership committee or to an executive committee.

(b) To expel members for any of the following causes:

(1) Conviction of a criminal offense involving moral turpitude.

(2) Failure to carry out contracts, agreements or obligations with the credit union.

(3) Refusal to comply with the provisions of this division or of the bylaws.

Any members who are expelled by the board of directors have the right to appeal therefrom to the members, in which event, after hearing, the order of suspension may be revoked by a two-thirds vote of the members present at a special meeting to consider the matter.

(c) To determine from time to time the interest rate on obligations with members and to authorize the payment of interest refunds to borrowing members.

(d) To fix the maximum number of shares which may be held by, and, in accordance with Section 15100, establish the maximum amount of obligations which may be entered into with, any one member.

(e) To declare dividends on shares in accordance with the credit union's written capital structure policy and to determine the interest rate or rates which will be paid on certificates for funds.

(f) To amend the bylaws, except where membership approval is required.

(g) To fill vacancies in the board of directors or credit committee, and to temporarily fill vacancies caused by the suspension of any member of the board of directors, or any or all members of the credit committee, pending a meeting of the members to determine whether to affirm such suspension and vacate the office, or to reinstate such member or members.

(h) To direct the deposit or investment of funds, except loans to members.

(i) To designate alternate members of the credit committee who shall serve in the absence or inability of the regular members to perform their duties.

(j) To perform or authorize any action not inconsistent with law or regulation and not specifically reserved by the bylaws for the members, and to perform such other duties as the bylaws may prescribe.

SEC. 6. Section 14500 of the Financial Code is amended to read:

14500. (a) The officers of every credit union shall include a chairman or president, one or more vice chairmen or vice presidents, a secretary and a treasurer or chief financial officer.

(b) The officers of any credit union may include other officers

with titles and duties specified in the bylaws or determined by resolution of the board as may be necessary for the conduct of its affairs. The president, or if there is no president, the chairman of the board, is the general manager and chief executive officer of the credit union, unless otherwise provided in the bylaws.

(c) Except as otherwise provided in a credit union's bylaws, officers, other than those officers elected pursuant to Section 14454 and required pursuant to subdivision (a), shall be chosen by the board and serve at the pleasure of the board, subject to the rights, if any, of an officer under any contract of employment. Any officer may resign at any time upon written notice to the corporation without prejudice to the rights, if any, of the corporation under any contract or obligation with the credit union to which the officer is a party. An officer other than those officers required pursuant to subdivision (a), may, but need not be, a director of the credit union.

SEC. 7. Section 14501 of the Financial Code is amended to read:

14501. If the bylaws so provide, the directors may elect the same person as secretary and treasurer or chief financial officer.

SEC. 8. Section 14502 of the Financial Code is amended to read:

14502. The powers and duties of the officers of any credit union required pursuant to subdivision (a) of Section 14500 are as prescribed in the bylaws.

SEC. 9. Section 14552 of the Financial Code is amended to read:

14552. The supervisory committee shall, within seven days after suspension of any or all members of the credit committee, or any member of the board of directors, or any other officer, cause notice of a special meeting to be given to the members to take such action regarding the suspension as the members deem necessary.

SEC. 10. Section 14653.5 is added to the Financial Code, to read:

14653.5. Notwithstanding any other provision of law, a credit union may make any investment authorized by regulation or in writing by the commissioner.

SEC. 10.5. Section 14820 of the Financial Code is amended to read:

14820. (a) Any member of a credit union may authorize another person or persons to act by proxy with respect to such membership, subject to subdivision (e). Any proxy purported to be executed in accordance with Section 14821 shall be presumptively valid.

(b) No proxy shall be valid after the expiration of 11 months from the date thereof unless otherwise provided in the proxy, except that the maximum term of any proxy shall be three years from the date of execution. Every proxy continues in full force and effect until revoked by the person executing it prior to the vote pursuant thereto, except as otherwise provided in this section. Such revocation may be effected by a writing delivered to the corporation stating that the proxy is revoked or by a subsequent proxy executed by the person executing the prior proxy and presented to the meeting, or as to any meeting by attendance at such meeting and voting in person by the person executing the proxy. The dates contained on the forms of

proxy presumptively determine the order of execution, regardless of the postmark dates on the envelopes in which they are mailed.

(c) A proxy is not revoked by the death or incapacity of the maker or the termination of a membership as a result thereof unless, before the vote is counted, written notice of such death or incapacity is received by the corporation.

(d) Notwithstanding subdivisions (b) and (c), whenever any credit union which is subject to the provisions of this division is insolvent or its capital is impaired, or, when the commissioner determines that a credit union is in danger of insolvency or an impairment of its capital and the board of the directors of the credit union presents a reorganization plan to the commissioner and such plan is approved, the board of directors may, subject to the provisions of this division, solicit irrevocable proxies for a proxyholder who qualifies pursuant to this section. Unless otherwise provided in the articles or bylaws, the proxy of a member which states that it is irrevocable is irrevocable for the period specified therein when it is held by any of the following or a nominee of any of the following:

(1) A person who has purchased or who has agreed to purchase the membership.

(2) A creditor or creditors of the credit union who extended or continued credit or contracted to perform services to the corporation in consideration of the proxy if the proxy states that it was given in consideration of the extension or continuation of credit or services and the name of the person extending or continuing the credit or performing the service.

(3) A person who has contracted to perform services as an employee of the credit union, if the proxy is required by the contract of employment and if the proxy states that it was given in consideration of such contract of employment, the name of the employee, and the period of employment for which the employee has contracted.

Notwithstanding the period of irrevocability specified, the proxy becomes revocable when the agreement to purchase is terminated, the debt of the credit union or the member is paid, or the period of employment provided for in the contract of employment or the contract to perform services has terminated. In addition to paragraphs (1) through (3), a proxy of a member may be made irrevocable notwithstanding subdivision (c) if it is given to secure the performance of a duty or to protect a title, either legal or equitable, until the happening of events which by its terms, discharge the obligations secured by it.

(e) Subdivision (a) notwithstanding:

(1) No amendment of the articles or bylaws repealing, restricting, creating or expanding proxy rights may be adopted without approval by the members.

(2) No amendment of the articles or bylaws restricting or limiting the use of proxies may affect the validity of a previously issued irrevocable proxy during the term of its irrevocability, so long as it complied with applicable provisions, if any, of the articles or bylaws at the

time of issuance, and is otherwise valid under this section.

(f) Anything to the contrary notwithstanding, any revocable proxy covering matters requiring a vote of the members pursuant to Section 7222, Section 7224, Section 7233, Section 7812, paragraph (2) of subdivision (a) of Section 7911, Section 8012, subdivision (a) of Section 8015, Section 8610, or subdivision (a) of Section 8719 of the Nonprofit Mutual Benefit Corporation Law, Part 3 (commencing with Section 7110) of Division 2 of Title 1 of the Corporations Code, or subdivision (e) is not valid as to such matters unless it sets forth the general nature of the matter to be voted on.

SEC. 11. Section 14821 of the Financial Code is amended to read:

14821. (a) Except for solicited proxies which on their face provide for a period of validity of three years from the date of execution of the proxy, any form of proxy or written ballot distributed to 10 or more members of a credit union shall afford an opportunity on the proxy or form of written ballot to specify at the time the written ballot or proxy is distributed, a choice between approval and disapproval of each matter or group of related matters intended to be acted upon at the meeting for which the proxy is solicited or by such written ballot, and shall provide, subject to reasonable specified conditions, that where the person solicited specifies a choice with respect to any such matter the vote shall be cast in accordance therewith.

(b) In any election of directors, any form of proxy or written ballot in which the directors to be voted upon are named therein as candidates and which is marked by a member "withhold" or otherwise marked in a manner indicating that the authority to vote for the election of directors is withheld, shall not be voted either for or against the election of a director.

(c) In the case of any solicited proxy which on its face provides for a period of validity of three years from the date of execution of the proxy, the credit union shall provide to the person executing the proxy a written notice at the time of solicitation and in each succeeding year of validity thereof, which shall advise the member of the nature of each matter or group of related matters on which the proxy may be voted.

(d) Failure to comply with this section shall not invalidate any corporate action taken, but may be the basis for challenging any proxy at a meeting or written ballot and the superior court may compel compliance therewith at the suit of any member.

SEC. 12. Section 14860 of the Financial Code is amended to read:

14860. Except as provided in this section and Part 1 (commencing with Section 5100) of Division 5 of the Probate Code, no credit union shall exercise trust powers except upon qualifying as a trust company pursuant to Division 1 (commencing with Section 99).

(a) Notwithstanding any other provisions of law relating to trusts and trust authority, subject to the regulations of the commissioner, a credit union may act as a trustee or custodian, and may receive reasonable compensation for so acting, under any written trust in-

strument or custodial agreement created or organized in the United States which is a part of a pension plan for its members or groups or organizations of its members, which qualifies or has qualified for specific tax treatment under Section 401 or Section 408 of the Internal Revenue Code, Title 26 of the United States Code, or any deferred compensation plan for the benefit of the credit union's employees, provided the funds received pursuant to these plans are invested in share accounts or share certificate accounts of the credit union. All funds held by a credit union trustee or in a custodial capacity shall be maintained in accordance with applicable laws and rules and regulations as may be promulgated by the Secretary of Labor, the Secretary of the Treasury, or any other authority exercising jurisdiction over such trust or custodial accounts. The credit union shall maintain individual records for each participant or beneficiary which show in detail all transactions relating to the funds of each participant or beneficiary.

The trust instrument or agreement shall provide for the appointment of a successor trustee or custodian by a person, committee, corporation, or organization other than the credit union or any person acting in his or her capacity as a director, employee, or agent of the credit union, upon notice from the credit union or the commissioner that the credit union is unwilling or unable to continue to act as trustee or custodian.

(b) Shares may be issued in a revocable or irrevocable trust subject to the following:

(1) When shares are issued in a revocable trust, the settlor shall be a member of the credit union issuing the shares in his or her own right, and the name and address of the beneficiary shall be stated.

(2) When shares are issued in an irrevocable trust, the settlor or the beneficiary shall be a member of this credit union in his or her own right, and the name and address of the beneficiary shall be stated. For purposes of this section, shares issued pursuant to a pension plan authorized by this section shall be treated as an irrevocable trust unless otherwise indicated in rules and regulations issued by the commissioner.

(3) This subdivision does not apply to trust accounts established prior to the effective date of this subdivision. Trusts may be established pursuant to this subdivision, provided the trusts and their terms and conditions are in accordance with the California Multiple Party Accounts Law.

SEC. 13. Section 14862 of the Financial Code is amended to read:

14862. The board of directors shall establish from time to time a written savings capital structure policy which shall set out the various terms and conditions upon which credit union shares may be issued, paid for, transferred, and withdrawn. The savings capital structure policy may provide for different rates, maturities and minimum share account balances, subject to the rules of the commissioner for the credit union's share capital and the terms and conditions on which dividends may be calculated and paid to member's purchasing

credit union shares. The savings capital structure policy shall have as its goal avoiding instability in the credit union's savings capital and thereby providing that credit union members have an adequate source of funds for loans and receive a fair return on member share capital.

SEC. 14. Section 14954 of the Financial Code is amended to read:

14954. For the purposes of this chapter, a person who is not an applicant for an extension of credit or the creation of an obligation with the credit union but guarantees performance of the underlying obligation is a surety. A surety may act as security pursuant to subdivision (a) of Section 14955.

SEC. 15. Section 15050 of the Financial Code is amended to read:

15050. No credit union shall do any of the following:

(a) Enter into any obligation with any director, officer, member of the credit committee or member of the supervisory committee directly or indirectly unless the obligation complies with all lawful requirements of this division with respect to obligations permitted for other members and is not on terms more favorable than those extended to other members.

(b) Enter into any obligation with any director, officer, member of the credit committee or member of the supervisory committee, directly or indirectly, not fully secured by shares or certificates for funds unless all of the following requirements are satisfied:

(1) Upon the making of the obligation, the aggregate amount of obligations outstanding, except obligations fully secured by shares, to directors, officers, members of the credit committee and their alternates, or members of the supervisory committee will not exceed 10 percent of the unimpaired capital and surplus of the credit union.

(2) The obligation, except any portion of an obligation fully secured by shares, does not exceed 1 percent of the unimpaired capital and surplus of the credit union, or the maximum obligation to the credit union prescribed by subdivisions (b) and (c) of Section 15100, whichever is less.

(3) The obligation is approved by the credit committee, or in the alternative the credit manager, and by the board of directors, except that the credit manager shall not take part in any credit decision directly or indirectly for his or her benefit. The board of directors may select a loan officer to prepare a report and recommendation as to any extension of credit or other obligation requested by the credit manager.

(4) The credit union member entering into the obligation takes no part in the consideration of his or her application and does not attend any committee or board meeting while his or her application is under consideration.

(5) The names of members of the credit committee, or in the alternative, the credit manager, and board of directors who voted to authorize or ratify the obligation shall be entered in their respective minutes.

(c) Permit any director, officer, member of the credit committee,

or in the alternative, the credit manager, or member of the supervisory committee to become surety for any obligation created by the credit union for anyone other than a member of their immediate family.

(d) Enter into any obligation with any credit manager or any officer employed by the credit union, directly or indirectly, unless the obligation is in compliance with all requirements of this division with respect to obligations permitted for other members, and not on terms more favorable than those extended to other employees, and approved by the board of directors.

SEC. 16. 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 disappearing credit union, in person or by proxy, at a meeting of the members called for that purpose or by written consent of a majority of the members of the disappearing 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 membership as provided in subdivision (a) 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 disappearing 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.

CHAPTER 952

An act to amend Section 1599.1 of, and to add Section 1323 to, the Health and Safety Code, relating to health facilities.

[Approved by Governor September 25, 1985 Filed with Secretary of State September 26, 1985]

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

SECTION 1. Section 1323 is added to the Health and Safety Code, to read:

1323. (a) A health facility, as defined by subdivisions (c) to (g), inclusive, of Section 1250, which has a significant beneficial interest in an ancillary health service provider or which knows that an ancillary health service provider has a significant beneficial interest in the health facility shall disclose that interest in writing to the patients of the health facility, or their representatives, and advise the patients, or their representatives, that they may choose to have another ancillary health service provider provide any supplies or services ordered by a member of the medical staff of the health facility.

(b) If supplies or services are provided on an outpatient basis by an ancillary health service provider which is not on the same site as, or which is not on a site which is adjacent to, a health facility, as defined by subdivision (a) or (b) of Section 1250, which has a significant beneficial interest in the ancillary health service provider, or if the ancillary health service provider has a significant beneficial interest in the health facility, the ancillary health service provider shall disclose that interest in writing to the customers of the ancillary health service provider, or their representatives, and advise the customers, or their representatives, that they may choose to have another ancillary health service provider provide any supplies or services ordered by a member of the medical staff of the health facility.

(c) A health facility, as defined by Section 1250, shall not charge, bill, or otherwise solicit payment from a patient on behalf of, or refer a patient to, another health facility in which the health facility has a significant beneficial interest unless the health facility first discloses in writing to the patient, or his or her representative, that the patient may choose to have another health facility provide any supplies or services ordered by a member of the medical staff of the health facility.

(d) (1) Except as provided in paragraph (2), "significant

beneficial interest" means any financial interest that is equal to or greater than the lesser of the following:

(A) Five percent of the whole.

(B) Five thousand dollars ($5,000).

(2) "Significant beneficial interest" does not include any of the following interests:

(A) A lease agreement between a health facility, ancillary health service provider, another health facility, or a parent corporation of the health facility, or any combination thereof.

(B) Any financial interest held by a health facility or ancillary health service provider in the stock of a publicly held health facility or ancillary health service provider, or any parent corporation of a health facility or ancillary health service provider, if that financial interest does not exceed 5 percent of any class of equity securities of the health facility, ancillary health service provider, or parent corporation.

(C) An ownership interest in a health facility or ancillary health service provider if more than three-fourths of the patients of the health facility or ancillary health service provider are members of a prepaid group practice health care service plan, as defined by Section 1345.

(e) (1) "Ancillary health service provider" includes, but is not limited to, providers of pharmaceutical, laboratory, optometry, prosthetic, or orthopedic supplies or services, suppliers of durable medical equipment, home-health service providers, and providers of mental health or substance abuse services.

(2) As used in subdivision (b), "adjacent" means real property located within a 400-yard radius of the boundaries of the site on which the health facility is located.

(f) Neither a health facility nor an ancillary health service provider is required to make any disclosures required by this section to any patients or customers, or their representatives, if the patients or customers are enrolled in organizations or entities which provide or arrange for the provision of health care services in exchange for a prepaid capitation payment or premium.

SEC. 2. Section 1599.1 of the Health and Safety Code is amended to read:

1599.1. Written policies regarding the rights of patients shall be established and shall be made available to the patient, to any guardian, next of kin, sponsoring agency or representative payee, and to the public. Those policies and procedures shall ensure that each patient admitted to the facility has the following rights and is notified of the following facility obligations, in addition to those specified by regulation:

(a) The facility shall employ an adequate number of qualified personnel to carry out all of the functions of the facility.

(b) Each patient shall show evidence of good personal hygiene, be given care to prevent bedsores, and measures shall be used to prevent and reduce incontinence for each patient.

(c) The facility shall provide food of the quality and quantity to meet the patients' needs in accordance with physicians' orders.

(d) The facility shall provide an activity program staffed and equipped to meet the needs and interests of each patient and to encourage self-care and resumption of normal activities. Patients shall be encouraged to participate in activities suited to their individual needs.

(e) The facility shall be clean, sanitary, and in good repair at all times.

(f) A nurses' call system shall be maintained in operating order in all nursing units and provide visible and audible signal communication between nursing personnel and patients. Extension cords to each patient's bed shall be readily accessible to patients at all times.

(g) If a facility has a significant beneficial interest in an ancillary health service provider or if a facility knows that an ancillary health service provider has a significant beneficial interest in the facility, as provided by subdivision (a) of Section 1323, or if the facility has a significant beneficial interest in another facility, as provided by subdivision (c) of Section 1323, the facility shall disclose that interest in writing to the patient, or his or her representative, and advise the patient, or his or her representative, that the patient may choose to have another ancillary health service provider, or facility, as the case may be, provide any supplies or services ordered by a member of the medical staff of the facility.

A facility is not required to make any disclosures required by this subdivision to any patient, or his or her representative, if the patient is enrolled in an organization or entity which provides or arranges for the provision of health care services in exchange for a prepaid capitation payment or premium.

SEC. 3. Reimbursement to local agencies and school districts for costs mandated by the state pursuant to this act shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code and, if the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), shall be made from the State Mandates Claims Fund.

CHAPTER 953

An act to amend Sections 6002, 6005, 6006, 44976, 44986, 45014, 67005, and 67093 of, to add Sections 6006.6, 45021, and 67095 to, and to add Article 10 (commencing with Section 67140) to Chapter 5 of Division 22 of, the Food and Agricultural Code, relating to agriculture, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1985 Filed with Secretary of State September 26, 1985.]

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

SECTION 1. Section 6002 of the Food and Agricultural Code is amended to read:

6002. The director, or an entity designated by the Cotton Pest Control Board, may contract with the United States Department of Agriculture for the purpose of controlling, suppressing, or eradicating cotton boll weevil or pink bollworm in this state, the State of Arizona, or the Republic of Mexico to prevent the entry and establishment of these pests in this state.

SEC. 2. Section 6005 of the Food and Agricultural Code is amended to read:

6005. (a) Every grower of cotton in the state shall pay a fee of two dollars ($2) for each bale of cotton ginned or for each bale of cotton sold by growers in this state who received the cotton under the federal payment-in-kind program, Section 700 et seq. of Title 7 of the Code of Federal Regulations.

(b) The fee is a maximum fee. The amount of the fee may vary from district to district in accordance with the protection afforded to the cotton crop in the districts. The director may establish districts in the state for the purpose of fixing the fee. Between February 1 and June 30 of each year, the Cotton Pest Control Board shall recommend to the director the amount of the fee that it determines to be necessary to carry out this article in each district. The director may fix the fee at a less amount, when it is determined that the cost of administering this article can be defrayed with the below-maximum fee. The amount of the fee shall be effective for the next fiscal year. The fee shall be paid to the director or the entity designated by the Cotton Pest Control Board at the time the cotton is ginned or by the first handler when the cotton is sold in the case of cotton received by growers under the federal payment-in-kind program, Section 700 et seq. of Title 7 of the Code of Federal Regulations. The first handler shall deduct the fee from any moneys owed to the grower. To determine the number of payment-in-kind bales on which the fee is calculated that the first handler pays to the director, the first handler shall divide each grower's total payment-in-kind entitlement pounds of cotton by 500.

(c) The amount received from fees and other sources of income shall be deposited and handled in a manner determined by the Cotton Pest Control Board and shall be used exclusively to pay costs directly related to the control of pink bollworm or other related cotton pests.

(d) Fees which have not been expended by the termination date of this article shall be refunded.

(e) Moneys received from other sources for this program may be used to carry out the purposes of this article.

(f) The Cotton Pest Control Board may hire any and all necessary personnel, contract for services, and incur all other expenses necessary to carry out the purposes of this article.

SEC. 3. Section 6006 of the Food and Agricultural Code is amended to read:

6006. The director shall appoint a Cotton Pest Control Board, consisting of 10 members, to assist and advise him or her on matters which pertain to the control of cotton pests and to carry out its authority specified in this article.

The membership shall consist of at least one cottongrower from each of the major cotton-growing counties in the state, and one member who is not a cottongrower and who represents the public.

Any member of the board who misses two meetings without the permission of the board, is deemed to have resigned as a member of the board.

The board may meet in regular session each month. The chairperson of the board or the director may call any other meeting of the board at any time. Each member shall be allowed per diem and mileage in accordance with the State Board of Control rules for attending any meeting of the board.

The board shall annually review the effectiveness of the cotton pest control program.

SEC. 3.5. Section 6006.6 is added to the Food and Agricultural Code, to read:

6006.6. Any decision made by the Cotton Pest Control Board which results in an entity other than the department administering this article shall be made not later than May 1 of any year.

SEC. 4. Section 44976 of the Food and Agricultural Code is amended to read:

44976. The moneys which are received pursuant to this chapter shall be used only for the administration and enforcement of this chapter, including, but not limited to, payments to the county agricultural commissioners.

SEC. 5. Section 44986 of the Food and Agricultural Code is amended to read:

44986. It is unlawful for any person to do any of the following:

(a) Use a certification stamp for certifying containers or lots of avocados for other than containers previously inspected and designated to be stamped.

(b) Use the stamp at any time or in any manner other than provided in this chapter or contrary to the directions of the person authorizing the use of the stamp.

(c) Refuse to surrender, each day after use, or upon demand, any certification stamp authorized to be used.

(d) Counterfeit or alter or use any counterfeit or altered certification stamp.

SEC. 6. Section 45014 of the Food and Agricultural Code is amended to read:

45014. The committee shall be advisory to the director, and to the

California Avocado Commission if it decides to act pursuant to Section 67095, on all matters pertaining to this chapter, shall review all proposed regulations relating to this chapter, and shall make recommendations concerning the inspection and certification services under this chapter, including, but not limited to, the annual budget and fees necessary to provide adequate inspection and certification services; inspection procedures; training and supervision of inspectors; and enforcement actions, including the imposition of any fees and costs for inspection and surveillance provided for in subdivision (c) of Section 44975.

SEC. 7. Section 45021 is added to the Food and Agricultural Code, to read:

45021. (a) The requirements specified in this chapter, including, but not limited to, the setting, collection, and handling of inspection and certification fees and other costs of service, inspection frequency and procedures, hiring, training, and supervision of inspectors and other necessary personnel, use and revocation of an official stamp or permit, reports prior to preparing avocados for market, and recordkeeping with respect to avocados, may be conducted by the California Avocado Commission instead of the director, if authorized in the manner specified in Section 67095.

(b) The enforcement and regulatory authority of the director which is specified in this chapter shall remain in full force and effect. However, the authority of the director shall be exercised in consultation and cooperation with the commission during any period in which the commission exercises its authority pursuant to Section 67095.

(c) All expenditures incurred by the director in carrying out his or her duties under subdivision (b) shall be reimbursed from fees collected under this chapter.

SEC. 8. 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; quality and maturity standards; the collection and dissemination of crop volume and related statistics; and related marketing research.

SEC. 9. Section 67093 of the Food and Agricultural Code is amended to read:

67093. The powers or duties of the commission 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 may 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.

(h) To carry out the requirements prescribed in Chapter 9 (commencing with Section 44971) of Division 17.

SEC. 10. Section 67095 is added to the Food and Agricultural Code, to read:

67095. In order to avoid excessive administrative charges which adversely impact avocado producers, handlers, and consumers, the commission may decide, not later than February 1 of any year, to exercise its authority prescribed in Chapter 9 (commencing with Section 44971) of Division 17 during the next succeeding marketing season.

SEC. 11. Article 10 (commencing with Section 67140) is added to Chapter 5 of Division 22 of the Food and Agricultural Code, to read:

Article 10. Quality Standards

67140. The commission may recommend to the director the adoption of avocado quality standards in accordance with the procedures specified in Chapter 1 (commencing with Section 58601) of Part 2 of Division 21 unless otherwise specified in this article.

67141. Any quality standards adopted pursuant to this article shall be implemented by the director at the beginning of the marketing season next succeeding the date in which they were approved by the

director.

67142. Quality standards recommended by the commission and concurred in by the director, shall not be operative until approved in the manner specified in Section 67121.

67143. The commission shall serve as the advisory body to the director on all matters pertaining to this article.

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 for the changes proposed by this bill to apply to the 1985 marketing season, it is necessary that this act take effect immediately.

CHAPTER 954

An act to add Sections 1512 and 1569.313 to the Health and Safety Code, relating to community care facilities.

[Approved by Governor September 25, 1985 Filed with Secretary of State September 26, 1985]

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

SECTION 1. The Legislature finds and declares that family involvement with family members in community care facilities should be encouraged.

SEC. 2. Section 1512 is added to the Health and Safety Code, to read:

1512. Each residential community care facility shall state, on its client information form or admission agreement, and on its patient's rights form, the facility's policy concerning family visits and other communication with resident clients and shall promptly post notice of its visiting policy at a location in the facility that is accessible to residents and families.

The community care facility's policy concerning family visits and communication shall be designed to encourage regular family involvement with the resident client and shall provide ample opportunities for family participation in activities at the facility.

SEC. 3. Section 1569.313 is added to the Health and Safety Code, immediately following Section 1569.31, to read:

1569.313. Each residential care facility for the elderly shall state, on its client information form or admission agreement, and on its patient's rights form, the facility's policy concerning family visits and other communication with resident clients and shall promptly post notice of its visiting policy at a location in the facility that is accessible to residents and families.

The facility's policy concerning family visits and communication

shall be designed to encourage regular family involvement with the resident client and shall provide ample opportunities for family participation in activities at the facility.

SEC. 4. Reimbursement to local agencies and school districts for costs mandated by the state pursuant to this act shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code and, if the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), shall be made from the State Mandates Claims Fund.

SEC. 5. Section 3 of this act shall become operative only if SB 185 of the 1985–86 Regular Session is chaptered and becomes effective January 1, 1986, and adds Chapter 3.3 (commencing with Section 1569) to Division 2 of the Health and Safety Code.

CHAPTER 955

An act to amend Sections 8014, 8015, and 8024 of, and to add Section 8025 to, the Fish and Game Code, relating to fish and game.

[Approved by Governor September 25, 1985 Filed with Secretary of State September 26, 1985.]

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

SECTION 1. Section 8014 of the Fish and Game Code is amended to read:

8014. The original signed copy of the receipt required by Section 8011 shall be delivered to the fisherman at the time of the purchase or receipt of the fish. That copy of the receipt shall be retained by the fisherman for a period of one year and shall be available for inspection at any time during that period by the department. The duplicate copy shall be kept by the dealer or person receiving the fish for a period of one year and shall be available for inspection at any time within that period by the department. The triplicate copy shall be delivered to the department on or before the first and 16th day of each month. On delivery of sardines, anchovies, mackerel, or squid used or intended to be used in a cannery, a quadruplicate copy shall be made at the time of the original and shall be made available by the maker for delivery to an agent authorized in writing by the majority of the persons who participated in the taking of the fish, excluding the fisherman receiving the original copy. The buyer or canner upon request of the authorized agent shall notify the agent of the unloading and weighing of the fish and shall permit the agent to be present at all times during the weighing of the fish.

SEC 2. Section 8015 of the Fish and Game Code is amended to read:

8015. (a) A fish dealer, canner, or preserver or other person

licensed pursuant to Article 7 (commencing with Section 8040) who catches his or her own fish shall fill out the receipt as required by this article at the time the fish are brought ashore. The original signed copy of the receipt shall be retained by the licensee for a period of one year and shall be available for inspection at any time within that period by the department. The duplicate copy shall be delivered to the department on or before the first and 16th day of each month.

(b) Every fisherman who sells fish, mollusks, or crustaceans taken from the waters of this state or brought into this state in fresh condition to persons not licensed pursuant to Article 7 (commencing with Section 8040) shall fill out the receipt required by this article and shall be subject to the tax imposed by Section 8045. The person taking, purchasing, or receiving the fish, mollusks, or crustaceans shall sign the receipt. The original signed copy of the receipt shall be retained by the fisherman for a period of one year and shall be available for inspection at any time within that period by the department. The duplicate copy shall be retained by the person taking, purchasing, or receiving the fish, mollusks, or crustaceans until they are prepared for consumption or otherwise disposed of. The triplicate copy shall be delivered to the department on or before the 1st and 16th day of each month.

(c) Every fisherman who transports fish, mollusks, or crustaceans taken from the waters of this state or brought into this state in fresh condition, or gives them to other persons for the purpose of transporting them, shall fill out a transportation receipt provided by the department at the time the fish are brought ashore. The person transporting the fish, mollusks, or crustaceans shall sign the receipt. The original signed copy of the receipt shall be retained by the fisherman for a period of one year and shall be available for inspection at any time within that period by the department. The duplicate copy shall be retained by the person transporting the fish, mollusks, or crustaceans until they are sold fresh, canned, cured, made into fish meal or fertilizer, or otherwise disposed of. The triplicate copy shall be delivered to the department on or before the first and 16th day of each month. The transportation receipt required pursuant to this subdivision is for transit purposes only.

SEC. 3. Section 8024 of the Fish and Game Code is amended to read:

8024. The original signed copy of the receipt required by Section 8023 shall be delivered to the person from whom the fish are received at the time of the purchase or receipt of the fish. That copy of the receipt shall be retained by the person for a period of one year and shall be available for inspection at any time during that period by the department. The duplicate copy shall be kept by the dealer or person receiving the fish for a period of one year and shall be available for inspection at any time within that period by the department. The triplicate copy shall be delivered to the department on or before the first and 16th day of each month.

SEC. 4. Section 8025 is added to the Fish and Game Code, to read:

8025. The commission may suspend or revoke the commercial fishing privileges of any fisherman or the license of any person required to be licensed under Article 7 (commencing with Section 8040) convicted of a violation of any provision of this article.

SEC. 5. No reimbursement is required by this act pursuant to 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 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 956

An act to amend Sections 3370, 3371, 3372, 3373, 3374, 3375, and 3376 of, to amend the heading of Article 2 (commencing with Section 3370) of Chapter 18 of Division 1 of, to add Sections 3372.5 and 3377 to, and to repeal Section 3351 of, the Financial Code, and to amend Sections 11346.1 and 11346.2 of the Government Code, relating to banks, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1985 Filed with Secretary of State September 26, 1985]

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

SECTION 1. Section 3351 of the Financial Code is repealed.

SEC. 2. The heading of Article 2 (commencing with Section 3370) of Chapter 18 of Division 1 of the Financial Code is amended to read:

Article 2. Loans to Executive Officers and Directors

SEC. 3. Section 3370 of the Financial Code is amended to read:

3370. It is the intent of the Legislature that the provisions of this article, insofar as they are contained in Regulation O (12 C.F.R. Part 215) of the Federal Reserve Board, conform, and be interpreted by anyone construing the provisions of this article to so conform, to Regulation O, to any rule or interpretation promulgated thereunder by the Board of Governors of the Federal Reserve System, and to any interpretation issued by an official or employee of the Federal Reserve System duly authorized to issue the interpretation.

SEC. 4. Section 3371 of the Financial Code is amended to read:

3371. As used in this article:

(a) "Bank" means:

(1) Any commercial bank or trust company incorporated under the laws of this state.

(2) Any foreign bank which is licensed by the superintendent under Article 3 (commencing with Section 1750) of Chapter 13.5 of

this division to maintain a depositary agency or branch office (as defined in Section 1700) in this state, with respect to any such office.

(3) Any corporation incorporated under the laws of this state which is incorporated for the purpose of engaging in, or which is authorized by the superintendent to engage in, business under Article 1 (commencing with Section 3500) of Chapter 19.

(4) Any foreign corporation which is licensed by the superintendent under Article 1 (commencing with Section 3500) of Chapter 19 of this division to maintain an office in this state and to transact at such office business under that article, with respect to any such office.

(b) "Company" has the meaning set forth in subdivision (a) of Section 215.2 of Regulation O.

(c) "Executive officer" has the meaning set forth in the first two sentences of subdivision (d) of Section 215.2 of Regulation O. Also, "executive officer", when used with respect to any bank of the type described in paragraph (2) or (4) of subdivision (a), includes the manager of each office of the type referred to in paragraph (2) or (4) of subdivision (a) which the bank maintains in this state.

(d) "Extension of credit" has the meaning set forth in Section 215.3 of Regulation O. However, for purposes of this subdivision, the term "member bank," as used in Section 215.3, shall be construed to have the same meaning as "bank," as defined in subdivision (a).

(e) "Regulation O" means Regulation O (12 C.F.R., Part 215) as adopted by the Board of Governors of the Federal Reserve System, including all amendments thereto in effect on January 1, 1984.

SEC. 5. Section 3372 of the Financial Code is amended to read:

3372. Sections 215.2, 215.3, 215.4, 215.5, 215.7, and 215.8 of Regulation O in all of their particulars, including footnotes thereto, are hereby referred to, incorporated by reference into this article, and adopted, subject to the following:

(a) The term "this Subpart," as used in the referenced sections of Regulation O, shall be construed to mean "this article."

(b) The term "member bank," as used in the referenced sections of Regulation O, shall be construed to have the same meaning as "bank," as defined in Section 3371.

(c) The term "the appropriate Federal banking agency," as used in the referenced sections of Regulation O, shall be construed to mean "the superintendent."

(d) The term "executive officer of a member bank," as used in the referenced sections of Regulation O, shall be construed to include, in the case of a bank of the type described in paragraph (2) or (4) of subdivision (a) of Section 3371, the manager of each office of the type referred to in paragraph (2) or (4) of subdivision (a) of Section 3371 which the bank maintains in this state.

(e) Subdivision (f) of Section 215.2 of Regulation O is not applicable; instead, for purposes of the referenced sections of Regulation O, the term "lending limit" shall be construed to mean an amount equal to the limit of obligations of a single obligor set forth

in Section 1221 of this code, and any reference to subdivision (f) of Section 215.2 made within the provisions of Regulation O which are made applicable by this section shall be considered to be a reference to Section 1221.

(f) Subdivision (g) of Section 215.2 of Regulation O is not applicable.

(g) (1) Any company which is majority owned by one or more executive officers or directors of a bank, individually or collectively, shall be deemed to be a related interest of each of those executive officers or directors for purposes of the referenced sections of Regulation O.

(2) In case an individual who is an executive officer of a bank is a director or executive officer of a company, the company shall be deemed to be a related interest of the individual for purposes of the referenced sections of Regulation O except subdivision (c) of Section 215.4. However, this paragraph shall not apply to an extension of credit by a bank to any of the following companies: (A) a bank holding company of which the bank is a subsidiary; (B) any subsidiary of such a bank holding company; or (C) any nonprofit company engaged in religious, charitable, educational, scientific, literary, social, or recreational purposes, provided that the individual whose position as a director or executive officer of the company is at issue does not receive compensation in excess of one thousand dollars ($1,000) per year for serving as a director or executive officer of the company. For purposes of the foregoing sentence, "subsidiary" has the meaning set forth in 12 U.S.C. 1841(d).

(3) In case a bank in making an extension of credit becomes subject to the requirements set forth in subdivision (b)(1)(i) of Section 215.4 of Regulation O because of paragraph (1) or (2), the bank shall be deemed to fulfill the requirement if the extension of credit is promptly reported to the board of the bank.

SEC. 5.5. Section 3372.5 is added to the Financial Code, to read:

3372.5. No bank shall extend credit in an aggregate amount greater than the amount permitted in paragraph (3) of subdivision (c) of Section 215.5 of Regulation O to any company which is majority owned by one or more executive officers of the bank, individually or collectively. For purposes of paragraph (3) of subdivision (c) of Section 215.5 of Regulation O, the total amount of credit extended by the bank to the company shall be considered to be extended to each such executive officer of the bank.

SEC. 6. Section 3373 of the Financial Code is amended to read:

3373. (a) Notwithstanding any other provisions of this article, whenever Section 215.2, 215.3, 215.4, 215.5, 215.7, or 215.8 is changed by the Board of Governors of the Federal Reserve System, the superintendent may by regulation adopt that same change. 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 becomes effective.

(b) For the purpose 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.

SEC. 7. Section 3374 of the Financial Code is amended to read:

3374. In making any extension of credit which is subject to this article, a bank shall comply with all other applicable provisions of this division relating to extensions of credit by banks.

SEC. 8. Section 3375 of the Financial Code is amended to read:

3375. No provision of this article or of Article 2 (commencing with Section 1220) of Chapter 10 shall apply to an advance of money made by a bank pursuant to Section 317 of the Corporations Code.

SEC. 9. Section 3376 of the Financial Code is amended to read:

3376. Any bank which makes an extension of credit in violation of this article is liable to a fine of not more than ten thousand dollars ($10,000) for each offense. Any person, other than the bank making the extension of credit, who knowingly makes or procures an extension of credit in violation of this article is guilty of a felony.

SEC. 9.5. Section 3377 is added to the Financial Code, to read:

3377. (a) Any extension of credit which is outstanding on the effective date of this section and which would, if made on or after the effective date of this section, violate subdivision (c) of Section 215.4 of Regulation O, as incorporated by Section 3372, shall be reduced, in amount, by October 1, 1986, to be in compliance with subdivision (c) of Section 215.4 of Regulation O. Any renewal or extension of such extension of credit on or after the effective date of this section shall be made only on terms that shall bring the extension of credit into compliance with subdivision (c) of Section 215.4 by October 1, 1986. However, any extension of credit made before the effective date of this section that bears a specific maturity date of October 1, 1986, or later, shall be repaid in accordance with its repayment schedule in existence on or before the effective date of this section.

(b) If a bank is unable to bring all extensions of credit outstanding on the effective date of this section into compliance as required by subdivision (a), the bank shall promptly report that fact to the superintendent and explain the reasons why all the extensions of credit cannot be brought into compliance. The superintendent may, on the basis of good cause shown, extend the October 1, 1986 date for compliance for any extension of credit for not more than two additional one-year periods.

SEC. 10. Section 11346.1 of the Government Code is amended to read:

11346.1. (a) The provisions of this article shall not apply to any regulation not required to be filed with the Secretary of State under this chapter, and only this section and Sections 11346.2 and 11349.6 shall apply to any regulation prescribing an agency's organization or procedure or to an emergency regulation adopted pursuant to subdivision (b), or to any regulation adopted under Section 8054 or 3373 of the Financial Code.

(b) Except as provided in subdivision (c), if a state agency makes a finding that the adoption of a regulation or order of repeal is necessary for the immediate preservation of the public peace, health and safety or general welfare, the regulation or order of repeal may be adopted as an emergency regulation or order of repeal.

Any finding of an emergency shall include a written statement which contains the information required by paragraphs (2) to (6), inclusive, of subdivision (a) of Section 11346.5 and a description of the specific facts showing the need for immediate action. The enactment of an urgency statute shall not, in and of itself, constitute a need for immediate action.

The statement and the regulation or order of repeal shall be filed immediately with the Office of Administrative Law. The statement or order of repeal shall be published in the next issue of the California Administrative Notice Register, which shall be delivered to each Member of the Legislature and to each standing committee. The regulation shall be published in the next issue of the California Administrative Code Supplement.

(c) (1) Notwithstanding any other provision of the law, no board or commission shall have the power to adopt an emergency regulation to interpret, implement, or make specific provisions of the law relating to campaign disclosure except by a unanimous vote of all members of such board or commission present at the proceeding at which such regulation is adopted.

(2) Notwithstanding any other provision of law, no emergency regulation which is a building standard, as defined in Section 18909 of the Health and Safety Code, shall be filed, nor shall such building standard be effective, unless such building standards are submitted to the State Building Standards Commission, and are approved and filed pursuant to the provisions of Sections 18937 and 18938 of the Health and Safety Code.

(d) The emergency regulation or order of repeal shall become effective upon filing or upon any later date specified by the state agency in a written instrument filed with, or as a part of, the regulation or order of repeal.

(e) No regulation adopted as an emergency regulation shall remain in effect more than 120 days unless the adopting agency has complied with Sections 11346.4 to 11346.8, inclusive, prior to the adoption of the emergency regulation, or has, within the 120-day period, completed the regulation adoption process by formally adopting the emergency regulation or any amendments thereto, pursuant to the provisions of this chapter. The adopting agency, prior to the expiration of the 120-day period, shall transmit to the office for filing with the Secretary of State the adopted regulation, the rulemaking file, and a certification that either Sections 11346.4 to 11346.8, inclusive, were complied with prior to adoption, or that there was compliance with the provisions of this section within the 120-day period.

(f) In the event an emergency regulation was filed as an

amendment to an existing regulation, upon failure of the adopting agency to comply with subdivision (e) as provided above, the regulation as it existed prior to such emergency amendment shall thereupon become effective and after notice to the adopting agency by the Office of Administrative Law shall be reprinted in the California Administrative Code in the place of such emergency amendment.

(g) In the event a regulation is originally adopted and filed as an emergency and the adopting agency fails to comply with subdivision (e), such failure shall constitute a repeal thereof and after notice to the adopting agency by the Office of Administrative Law, shall be deleted.

(h) A regulation originally adopted as an emergency regulation, or an emergency regulation substantially equivalent thereto which is readopted as an emergency regulation, shall not be filed with the Secretary of State as an emergency regulation except with the express prior approval of the Director of the Office of Administrative Law.

SEC. 11. Section 11346.2 of the Government Code is amended to read:

11346.2. A regulation or an order of repeal required to be filed with the Secretary of State shall become effective on the 30th day after the date of filing unless:

(a) Otherwise specifically provided by the statute pursuant to which the regulation or order of repeal was adopted, in which event it becomes effective on the day prescribed by such statute.

(b) It is a regulation prescribing an agency's organization or procedure, or a regulation adopted under Section 8054 or 3373 of the Financial Code, in which event it shall become effective upon filing or upon any later date specified by the state agency in a written instrument filed with, or as part of, the regulation or order of repeal.

(c) A later date is prescribed by the state agency in a written instrument filed with, or as part of, the regulation or order of repeal.

(d) The agency makes a written request to the office demonstrating good cause for an earlier effective date, in which case the office may prescribe an earlier date.

SEC. 12. No reimbursement is required by this act pursuant to 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 incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

SEC. 13. This act is an urgency statute necessary for the immediate preservation of 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 necessary for this act to take effect immediately because it resolves ambiguities and makes necessary changes and corrections in the law governing extensions of credit by banks to insiders which

became operative April 1, 1985, and in related provisions governing overdrafts and administrative regulations.

CHAPTER 957

An act to amend Section 1242.7 of the Business and Professions Code, relating to hemodialysis technicians, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1985 Filed with Secretary of State September 26, 1985]

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

SECTION 1. Section 1242.7 of the Business and Professions Code is amended to read:

1242.7. (a) The State Department of Health Services shall, within six months after the effective date of this section, adopt rules and regulations prescribing minimum training standards for persons employed as hemodialysis technicians.

(b) Each dialysis clinic or dialysis unit within a licensed clinic or hospital, as defined respectively in Sections 1204 and 1250 of the Health and Safety Code, or any person operating or using dialysis equipment, other than a dialysis patient, shall have available to the department for review and approval, its training program and test for hemodialysis technicians. The training program shall include training in the administration of local anesthetics, heparin, and sodium chloride solutions. The requirements set forth in Section 1242.8 shall prevail over the requirements of this section with regard to any test requirements for the administration of these medications. The test shall be administered by personnel performing the training at each dialysis clinic or dialysis unit and shall include written, oral and practical examinations designed to accurately test the proficiency of personnel in training on the type of dialyzer and equipment utilized at the dialysis clinic or dialysis unit. Six months after the adoption of rules and regulations pursuant to subdivision (a), those dialysis clinics or dialysis units without an approved training program and test shall not be permitted to train personnel until they submit and receive approval for a training program and test by the department. A training program and test shall be approved or rejected by the department within 30 days after submission. If action on a program cannot be accomplished within 30 days after submission, the department shall not enforce the provisions of this section with respect to any facility whose program is not acted upon until the department acts to approve or reject. The department shall submit to the Legislature copies of any notice informing facilities that the department cannot act on their application within 30 days. In the case of persons employed as

hemodialysis technicians on the effective date of this section, the test shall be taken and passed within one year of the effective date of this section or their employment shall be terminated. Any person employed as a hemodialysis technician on the effective date of this section may perform venipuncture and arterial puncture for the purpose of providing dialysis treatment for a patient as defined by regulations of the department.

(c) Personnel in training shall be classified as dialysis technician trainees and shall be immediately supervised by a licensed physician and surgeon or by a licensed registered nurse whenever the trainee is involved in direct patient care prior to passing the test. Persons employed as hemodialysis technicians on the effective date of the act amending this section during the second year of the 1981–82 Regular Session of the Legislature who have taken and been notified of their failure to successfully complete the approved test shall be reclassified as dialysis technician trainees. These persons shall be immediately supervised by a licensed physician and surgeon or by a licensed registered nurse whenever involved in direct patient care, and shall be required to successfully complete the approved test within six months after taking their first test or their employment shall be terminated.

(d) Each dialysis unit shall make available to the department the names of individuals employed by them as dialysis technicians and evidence that those persons have completed the approved training and successfully passed the approved test. Evidence of completion of the training program and passage of the prescribed test shall include the particular type of dialyzer and equipment upon which the individual was trained and tested and shall be a part of the individual's personnel records.

(e) The department may revoke or suspend the license of any dialysis clinic or unit or any licensed clinic or hospital for any violation of any provision of this section or Section 1242.8.

(f) For the purposes of this section, the following terms shall have the following meanings:

(1) "Hemodialysis technician" means an unlicensed health care provider who is employed by a hemodialysis clinic or unit for the purpose of participating in the direct treatment of patients undergoing hemodialysis. The treatment of patients includes performing venipuncture and arterial puncture for the purpose of providing dialysis treatment for a patient, as defined by regulations of the department. The treatment of patients includes the administration of local anesthetics, heparin, and sodium chloride solutions. The adminstration of these medications shall be pursuant to protocol established by the medical director of the dialysis facility and the requirements prescribed in Section 1242.8, and shall be under the immediate supervision of a licensed physician and surgeon or a licensed registered nurse. The administration of local anesthetics shall be limited to intradermal, subcutaneous, or topical administration.

(2) "Immediate supervision" means supervision of dialysis treatment in the same room in which the dialysis treatment is being performed.

(g) Any hemodialysis technician or hemodialysis technician trainee who has completed a local training program shall be eligible to take a state-approved test for hemodialysis technicians who were employed on January 1, 1982, as provided in subdivision (b).

(h) Any hemodialysis technician or hemodialysis technician trainee who has completed a local training program shall be eligible to take the standardized test developed by the department to measure the technician's competency to administer the medications specified in this section.

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

In order to ensure that continued dialysis treatment may be available to those persons who require that treatment and that those persons may continue to be treated by certified hemodialysis technicians, it is necessary that this act go into immediate effect.

CHAPTER 958

An act to amend Section 6710 of, and to add Section 6711 to, the Labor Code, relating to snow avalanche blasting.

[Approved by Governor September 25, 1985 Filed with Secretary of State September 26, 1985]

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

SECTION 1. Section 6710 of the Labor Code is amended to read:

6710. (a) At every place of employment where explosives are used in the course of employment, there shall be a person licensed pursuant to the provisions of Chapter 3 (commencing with Section 7990) of Part 9 of Division 5, to supervise and visually direct the blasting operation.

(b) For the purposes of this section, "explosives" shall include, but not be limited to, class A and B explosives, blasting caps, detonating cord, and charges or projectiles used in the control of avalanches. For the purposes of this section, "explosives" shall not include small arms ammunition or class C explosives such as explosive powerpacks in the form of explosive cartridges or explosive-charged construction devices, explosive rivets, bolts, and charges for driving pins and studs, and cartridges for explosive-actuated power devices.

(c) This section shall not apply to persons, firms, or corporations licensed pursuant to Part 2 (commencing with Section 12500) of Division 11 of the Health and Safety Code.

SEC. 2. Section 6711 is added to the Labor Code, to read:

6711. (a) The division shall develop and administer an oral and written examination for persons using explosives, as defined in Section 6710, while engaged in snow avalanche blasting. Any person engaged in snow avalanche blasting shall pass this examination prior to being licensed by the division.

(b) The division shall select an advisory committee to assist the division in preparing the data and information for the written and oral qualifying examination. The advisory committee shall consist of not less than seven members, nor more than nine members, with at least one representative from explosives manufacturers, snow avalanche blasting consultants, the recreational snow ski industry, a public recreation area, the California Department of Transportation, and the division.

SEC. 3. Reimbursement to local agencies and school districts for costs mandated by the state pursuant to this act shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code and, if the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), shall be made from the State Mandates Claims Fund.

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 959

An act to add Section 42005.5 to the Vehicle Code, relating to schools for traffic violators, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1985. Filed with Secretary of State September 26, 1985]

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

SECTION 1. Section 42005.5 is added to the Vehicle Code, to read:

42005.5. Notwithstanding Section 46300 or 84500 of the Education Code or any other provision of law, on and after September 1, 1985, attendance at a school for traffic violators ordered pursuant to Section 42005 shall not be included in computing the average daily attendance of any school district, community college district, or other public educational institution for purposes of allocation of state funds.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within

the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that funds, commencing with the 1985–86 school year, not be allocated for average daily attendance on the basis of attendance at schools for traffic violators required by a court, it is necessary that this act take effect immediately.

CHAPTER 960

An act to amend Sections 270, 272, and 273 of, and to add Section 271.5 to, the Financial Code, relating to banks, and making an appropriation therefor.

[Approved by Governor September 25, 1985 Filed with Secretary of State September 26, 1985]

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

SECTION 1. Section 270 of the Financial Code is amended to read:

270. The superintendent shall annually collect pro rata from the banks and trust companies under the supervision of the department a fund in amount sufficient in the superintendent's judgment to meet the expenses of the department and a reasonable reserve for contingencies.

The amount of the annual assessment for the fund on any bank or trust company shall not exceed the sum of the products of a base assessment rate, or fraction thereof, and segregated portions of its total resources, according to the following table:

Segregated Total Resources (In Millions or Fractions Thereof)	Percentage of Base Assessment Rate
First $1	100.0
Next $9	33.0
Next $40	15.0
Next $50	7.5
Next $400	5.0
Next $500	4.5
Next $2,000	4.0
Next $7,000	3.4
Next $10,000	3.2
Excess over $20,000	2.1

The base assessment rate shall be set by the superintendent from time to time at the superintendent's discretion, not to exceed two dollars and twenty cents ($2.20) per one thousand dollars ($1,000) of total resources.

SEC. 2. Section 271.5 is added to the Financial Code, to read:

271.5. (a) Whenever the superintendent makes an assessment pursuant to Section 270 or 271, the superintendent shall mail or otherwise deliver to each bank and trust company assessed an invoice for the amount of its assessment. Notwithstanding the provisions of subdivision (b) relating to installment payments, the entire amount assessed to a bank or trust company shall become a liability of the bank or trust company at the time when the invoice is mailed or otherwise delivered to it.

(b) Any assessment made by the superintendent pursuant to Section 270 or 271 shall be paid as follows:

(1) If the assessment is two hundred thousand dollars ($200,000) or more, it shall be paid in three equal installments. The first installment shall be paid by September 30 next following the making of the assessment, the second installment shall be paid by December 31 of the same year, and the third installment shall be paid by February 28 of the succeeding year.

(2) If the assessment is less than two hundred thousand dollars ($200,000) but more than thirty thousand dollars ($30,000), it shall be paid in two equal installments. The first installment shall be paid by September 30 next following the making of the assessment, and the second installment shall be paid by February 28 of the succeeding year.

(3) If the assessment is thirty thousand dollars ($30,000) or less, it shall be paid by September 30 next following the making of the assessment.

SEC. 3. Section 272 of the Financial Code is amended to read:

272. The superintendent in addition to the annual assessment shall collect from each bank authorized to engage in the trust business, and from each corporation doing a departmental business as a title insurance company and as a trust company, to defray the cost of examination, a fee not to exceed two hundred dollars ($200) per diem, for each examiner necessarily engaged in the examination of the trust company, trust business, or trust department. The superintendent shall assess the fee upon completion of the examination of the trust company, trust business, or trust department of the title insurance company and shall mail or otherwise deliver an invoice for the fee to the institution. The institution shall pay the fee within 30 days after the invoice is mailed or otherwise delivered to it.

SEC. 4. Section 273 of the Financial Code is amended to read:

273. If any bank or trust company or title insurance company fails to make timely payment of any assessment made pursuant to Section 270, 271, or 272, the superintendent may cancel the certificate of authority of the bank or trust company or title insurance company to conduct a banking or trust business.

CHAPTER 961

An act to amend Section 52020 of, and to add Section 50191.5 to, the Health and Safety Code, relating to housing.

[Approved by Governor September 25, 1985 Filed with Secretary of State September 26, 1985]

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

SECTION 1. Section 50191.5 is added to the Health and Safety Code, to read:

50191.5. Any allocation of qualified mortgage bonds to a local agency may be apportioned by the local agency among two issues of those bonds and each apportionment shall be treated as a separate allocation for the purposes of expiration and use, including, but not limited to, deposits and extensions pursuant to Section 50191, if one portion of the allocation is to be used for an issue of qualified mortgage bonds to provide financing for loans for the acquisition of homes and the other portion of the allocation is to be used for an issue of qualified mortgage bonds to provide financing for loans for home improvement and rehabilitation.

SEC. 2. Section 52020 of the Health and Safety Code, as amended by Section 2 of Chapter 325 of the Statutes of 1985, is amended to read:

52020. (a) For purposes of a home financing program authorized by this part, a city or county has the following powers and duties:

(1) To acquire, contract, and enter into advance commitments to acquire, home mortgages made or owned by lending institutions at the purchase prices and upon the other terms and conditions as shall be determined by the city or county or other person as it may designate as its agent, to make and execute contracts with lending institutions for the origination and servicing of home mortgages, and to pay the reasonable value of services rendered under those contracts. Prior to executing any contract with a lending institution, a city or county shall adopt regulations establishing criteria for qualification of lending institutions eligible to originate and service home mortgages under home financing programs authorized by this part and shall, with respect to each home financing progam, permit each qualified lending institution which transacts business in the city or county the opportunity to participate in the program on an equitable basis with other participating lending institutions. Two or more cities in the same county, or a county and one or more cities within the county, or two or more adjacent counties and any number of cities within those counties may enter into an agreement to join or cooperate with one another in the exercise jointly, or otherwise, of any or all of their powers for the purpose of financing home mortgages pursuant to this part with respect to property within the boundaries of any one or more of the entities.

(2) To make loans to lending institutions under terms and conditions which, in addition to other provisions as determined by the city or county, require the lending institutions to use all of the net proceeds thereof, directly or indirectly, for the making of home mortgages in an aggregate principal amount equal to the amount of the net proceeds.

(3) To establish, by rules or regulations, in resolutions relating to any issuance of bonds or in any documents relating to the issuance, the standards and requirements applicable to the purchase of home mortgages or the making of loans to lending institutions as the city or county deems necessary or desirable to effectuate the purposes of this part, which may include without limitation any of the following:

(A) The time within which lending institutions are required to make commitments and disbursements for home mortgages.

(B) The location and other characteristics of homes to be financed by home mortgages.

(C) The terms and conditions of home mortgages to be acquired.

(D) The amounts and types of any insurance coverage required on homes, home mortgages, and bonds.

(E) The representations and warranties of lending institutions confirming compliance with the standards and requirements.

(F) Restrictions as to interest rate and other terms of home mortgages or the return realized therefrom by lending institutions.

(G) The type and amount of collateral security to be provided to assure repayment of any loans from the city or county and to assure repayment of bonds.

(H) Any other matters related to the purchase of home mortgages or the making of loans to lending institutions as deemed relevant by the city or county.

(4) To require from each lending institution from which home mortgages are purchased or to which loans are made the submission of evidence satisfactory to the city or county of the ability and intention of the lending institution to make home mortgages, and the submission, within the time specified by the city or county for making disbursements for home mortgages, of evidence satisfactory to the city or county of the making of home mortgages and of compliance with any standards and requirements established by it.

(b) Each city or county which finances housing pursuant to this part shall designate a person or entity to administer the program.

(c) Each city or county which finances housing pursuant to this part shall adopt regulations establishing criteria for qualification of persons and families, which may differ among different cities or counties to reflect varying economic and housing conditions. In developing this criteria, factors similar to the following shall be taken into consideration:

(1) The amount of the income of the person or family that is available for housing needs.

(2) The size of the household.

(3) The costs and condition of available housing.

(4) The eligibility of the persons or families for federal housing assistance of any type.

(d) Criteria for qualification of persons and families pursuant to this section shall include a maximum household income, which maximum shall not exceed the following:

(1) One hundred fifty percent of the median household income for mortgages made for improving a home or for homes 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 150 percent of the median household income. For purposes of this paragraph, a mortgage made for improving a home includes a home improvement loan as defined in Section 103A of Title 26 of the United States Code.

(2) One hundred twenty percent of the median household income where the purchaser will not be the first occupant. However, the city or county shall ensure that no less than 20 percent of the funds allocated for home mortgages where the purchaser will not be the first occupant shall be for households whose income does not exceed 110 percent of the median household income. However, the legislative body of the city or county may, by resolution, increase this income limitation to 120 percent of median household income if the legislative body finds that there are insufficient numbers of creditworthy persons whose income does not exceed the median household income. The resolution is final and conclusive as to the findings required by this paragraph. However, the finding shall not be made by the legislative body before six months from the date mortgages were first made under the program and only if participating lenders have entered into an agreement with the city, county, or city and county that lenders will advertise at least monthly the availability of funds and will forfeit one-quarter of their origination fees if they are unable to use 20 percent of the funds to make mortgages to households whose income does not exceed 110 percent of the median income.

(3) One hundred fifty percent of the median household income for mortgages made for improving a home or for homes where the purchaser will be the first occupant in any city, the entire area of which, or in any county in which a portion of the county, is designated by the United States Department of Commerce, Economic Development Administration as a special impact area within a Title IV redevelopment area, pursuant to Section 401 of the federal Public Works and Economic Development Act of 1965, as amended, and which is eligible for Urban Development Action Grant funds under the current distress standards established for cities and counties by the Secretary of the United States Department of Housing and Urban Development pursuant to Section 119 of the Housing and Community Development Act of 1974, if the homes purchased or improved are situated within the boundaries of a special impact area as defined by the Economic Development

Administration, and that designation is in effect on the date of sale of revenue bonds issued under this part.

As used in this subdivision, "median household income" means the highest of (A) statewide median household income, (B) countywide median household income, or (C) median family income for area as determined by the United States Department of Housing and Urban Development, with respect to either a standard metropolitan statistical area or an area outside of a standard metropolitan statistical area.

Any city or county which issued bonds pursuant to this chapter after August 1, 1981, may elect to apply this subdivision and subdivision (c) to mortgagors obtaining mortgages from the proceeds of the bonds.

(e) (1) Except as otherwise provided in paragraph (2), each city or county which finances housing pursuant to this part shall allocate no less than 60 percent of the dollar amount of its financing from bond proceeds to fund loans for the purchase of homes where the purchaser will be the first occupant, or for substantial rehabilitation. As used in this chapter, "substantial rehabilitation" means rehabilitation in which the costs of rehabilitation equal or exceed 20 percent of the value of the structure after rehabilitation.

(2) Paragraph (1) does not apply to an issue of bonds for which all of the proceeds of the bond issuance are allocated to fund loans for home improvement or substantial rehabilitation.

(f) Each city or county which finances housing pursuant to this part shall require each mortgagor under the program to certify his or her intention to occupy the home for a minimum of two years after receiving a home mortgage, with appropriate exceptions in hardship cases determined by the city or county.

(g) To do any and all things necessary to carry out the purposes and exercise the powers expressly granted by this part.

(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 enacted before January 1, 1987, deletes or extends that date. However, this section shall remain applicable to loans made on or after January 1, 1987, with the proceeds of bonds issued prior to that date.

SEC. 3. Section 52020 of the Health and Safety Code, as amended by Section 3 of Chapter 325 of the Statutes of 1985, is amended to read:

52020. (a) For purposes of a home financing program authorized by this part, a city or county has the following powers and duties:

(1) To acquire, contract, and enter into advance commitments to acquire, home mortgages made or owned by lending institutions at the purchase prices and upon the other terms and conditions as shall be determined by the city or county or other person as it may designate as its agent, to make and execute contracts with lending institutions for the origination and servicing of home mortgages and to pay the reasonable value of services rendered under those

contracts. Prior to executing any contract with a lending institution, a city or county shall adopt regulations establishing criteria for qualification of lending institutions eligible to originate and service home mortgages under home financing programs authorized by this part and shall, with respect to each home financing program, permit each qualified lending institution which transacts business in the city or county the opportunity to participate in the program on an equitable basis with other participating lending institutions. Two or more cities in the same county, or a county and one or more cities within the county, or two or more adjacent counties and any number of cities within those counties may enter into an agreement to join or cooperate with one another in the exercise jointly, or otherwise, of any or all of their powers for the purpose of financing home mortgages pursuant to this part with respect to property within the boundaries of any one or more of the entities.

(2) To make loans to lending institutions under terms and conditions which, in addition to other provisions as determined by the city or county, require the lending institutions to use all of the net proceeds thereof, directly or indirectly, for the making of home mortgages in an aggregate principal amount equal to the amount of the net proceeds.

(3) To establish, by rules or regulations, in resolutions relating to any issuance of bonds or in any documents relating to the issuance, standards and requirements applicable to the purchase of home mortgages or the making of loans to lending institutions as the city or county deems necessary or desirable to effectuate the purposes of this part, which may include without limitation any of the following:

(A) The time within which lending institutions are required to make commitments and disbursements for home mortgages.

(B) The location and other characteristics of homes to be financed by home mortgages.

(C) The terms and conditions of home mortgages to be acquired.

(D) The amounts and types of any insurance coverage required on homes, home mortgages and bonds.

(E) The representations and warranties of lending institutions confirming compliance with the standards and requirements.

(F) Restrictions as to interest rate and other terms of home mortgages or the return realized therefrom by lending institutions.

(G) The type and amount of collateral security to be provided to assure repayment of any loans from the city or county and to assure repayment of bonds.

(H) Any other matters related to the purchase of home mortgages or the making of loans to lending institutions as deemed relevant by the city or county.

(4) To require from each lending institution from which home mortgages are purchased or to which loans are made the submission of evidence satisfactory to the city or county of the ability and intention of the lending institution to make home mortgages, and the submission, within the time specified by the city or county for

making disbursements for home mortgages, of evidence satisfactory to the city or county of the making of home mortgages and of compliance with any standards and requirements established by it.

(b) Each city or county which finances housing pursuant to this part shall designate a person or entity to administer the program.

(c) Each city or county which finances housing pursuant to this part shall adopt regulations establishing criteria for qualification of persons and families, which may differ among different cities or counties to reflect varying economic and housing conditions. In developing this criteria, factors similar to the following shall be taken into consideration:

(1) The amount of the income of the person or family that is available for housing needs.

(2) The size of the household.

(3) The costs and condition of available housing.

(4) The eligibility of the persons or families for federal housing assistance of any type.

(d) Criteria for qualification of persons and families pursuant to this section shall include a maximum household income, which maximum shall not exceed the following:

(1) One hundred twenty percent of the median household income for mortgages made for improving a home or for homes 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 city or county shall ensure that no less than one-half of the funds allocated for home mortgages where the purchaser will not be the first occupant shall be for households whose income does not exceed 80 percent of that median household income. However, the legislative body of the city or county may, by resolution, increase this income limitation to 90 percent of median household income if the legislative body finds that there are insufficient numbers of creditworthy persons whose income does not exceed 80 percent of median household income. The resolution is final and conclusive as to the findings required by this paragraph.

(3) One hundred fifty percent of the median household income for mortgages made for improving a home or for homes where the purchaser will be the first occupant in any city, the entire area of which, or in any county in which a portion of the county, is designated by the United States Department of Commerce, Economic Development Administration as a special impact area within a Title IV redevelopment area, pursuant to Section 401 of the federal Public Works and Economic Development Act of 1965, as amended, and which is eligible for Urban Development Action Grant funds under the current distress standards established for cities and counties by the Secretary of the United States Department

of Housing and Urban Development pursuant to Section 119 of the Housing and Community Development Act of 1974, if the homes purchased or improved are situated within the boundaries of a special impact area as defined by the Economic Development Administration, and that designation is in effect on the date of sale of revenue bonds issued under this part.

As used in this subdivision, "median household income" means the highest of (A) statewide median household income, (B) countywide median household income, or (C) median family income for area as determined by the United States Department of Housing and Urban Development, with respect to either a standard metropolitan statistical area or an area outside of a standard metropolitan statistical area.

(e) (1) Except as otherwise provided in paragraph (2), each city or county which finances housing pursuant to this part shall allocate no less than 60 percent of the dollar amount of its financing from bond proceeds to fund loans for the purchase of homes where the purchaser will be the first occupant, or for substantial rehabilitation. As used in this chapter, "substantial rehabilitation" means rehabilitation in which the costs of rehabilitation equal or exceed 20 percent of the value of the structure after rehabilitation.

(2) Paragraph (1) does not apply to an issue of bonds for which all of the proceeds of the bond issuance are allocated to fund loans for home improvement or substantial rehabilitation.

(f) Each city or county which finances housing pursuant to this part shall require each mortgagor under the program to certify his or her intention to occupy the home for a minimum of two years after receiving a home mortgage, with appropriate exceptions in hardship cases determined by the city or county.

(g) Each city and county may do any and all things necessary to carry out the purposes and exercise the powers expressly granted by this part.

(h) This section shall become operative January 1, 1987.

CHAPTER 962

An act to amend the heading of Chapter 6 (commencing with Section 132) of Title 7 of Part 1 of, to amend and renumber Section 152 of, and to add Section 139 to, the Penal Code, relating to crimes.

[Approved by Governor September 25, 1985. Filed with Secretary of State September 26, 1985]

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

SECTION 1. It is the intent of the Legislature in this act to preserve and protect witnesses who play such an important role in that process.

SEC. 2. The heading of Chapter 6 (commencing with Section 132) of Title 7 of Part 1 of the Penal Code is amended to read:

CHAPTER 6. FALSIFYING EVIDENCE, AND BRIBING, INFLUENCING, INTIMIDATING OR THREATENING WITNESSES

SEC. 3. Section 139 is added to the Penal Code, to read:

139. (a) Except as provided in Sections 71 and 136.1, any person who has been convicted of any felony offense specified in Section 12021.1 who willfully and maliciously communicates to a witness to, or a victim of, the crime for which the person was convicted, a credible threat to use force or violence upon that person or that person's immediate family, shall be punished by imprisonment in the county jail not exceeding one year or by imprisonment in the state prison.

(b) As used in this section, "a credible threat" is a threat made with the intent and the apparent ability to carry out the threat so as to cause the target of the threat to reasonably fear for his or her safety or the safety of his or her immediate family.

(c) The present incarceration of the person making the threat shall not be a bar to prosecution under this section.

(d) As used in this section, "malice," "witness," and "victim" have the meanings given in Section 136.

SEC. 4. Section 152 of the Penal Code is amended and renumbered to read:

140. Except as provided in Section 139, every person who willfully threatens to use force or violence upon the person of a witness to a crime or a victim of a crime or any other person, or to damage or destroy any property of any witness, victim, or any other person, because the witness, victim, or other person has provided any assistance or information to a law enforcement officer, or to a public prosecutor in a criminal proceeding or juvenile court proceeding, is guilty of a misdemeanor.

SEC. 5. No reimbursement is required by this act pursuant to 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 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 amend Sections 320.5 and 321.7 of the Health and Safety Code, and to amend Section 1 of Chapter 1038 of the Statutes of 1981, relating to health.

[Approved by Governor September 25, 1985. Filed with Secretary of State September 26, 1985]

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

SECTION 1. Section 320.5 of the Health and Safety Code is amended to read:

320.5. A State Maternal, Child, and Adolescent Health Board advisory to the director is hereby established within the State Department of Health Services.

The state board shall consist of 13 voting members. The membership shall reflect the ethnic and geographic diversity of the State of California and shall include individuals or parents of individuals who are recipients of services administered by the department, health providers, including Board of Medical Quality Assurance certified or qualified physicians, and representatives of other related interests. The Governor shall appoint seven members of the state board, including a county health officer; a member of the Primary Care Clinics Advisory Committee; one family practice physician, one dentist a major part of whose practice is children's dentistry; one pediatrician; one representative of a child health advocacy organization; and one parent, who is not a health care provider, of a child eligible for health services administered by the department. The Senate Rules Committee shall appoint three members of the state board, including a pediatrician, and a parent, who is not a health care provider, of a child eligible for health services administered by the department, and an individual experienced in administering a local family planning agency. The Speaker of the Assembly shall appoint three members of the state board, including a pediatrician, a nurse specializing in child health, and an obstetrician/gynecologist. A member of the State Council on Developmental Disabilities, a member of the State Commission on Special Education, the Directors of the Departments of Health Services, Mental Health, and Social Services and the Superintendent of Public Instruction, or their designees, shall serve as ex officio, nonvoting members of the state board. The term of each member shall be three years, or for the duration that each member maintains the qualifications under which he or she was appointed, whichever is shorter.

The members of the state board shall serve without compensation but shall be reimbursed for any actual and necessary expenses incurred in connection with the performance of their duties under this article. Members who are parents of children eligible for departmental programs may additionally be reimbursed upon request for their actual and necessary costs of additional child care and lost wages. The State Department of Health Services shall provide necessary support staff and services to the state board. The state board shall utilize available department staff to carry out specific tasks enumerated in this article. The state board may hire

staff for special projects provided the total budget level for board operations does not exceed the existing level, except as provided for by the director or the Legislature by statute.

The state board shall select its own chairperson from among the 13 appointed members by majority vote of the members and shall establish technical advisory committees as it deems necessary and desirable for the efficient and expeditious performance of its duties. The director may provide or the state board may request that the director provide additional technical experts and consultants to facilitate and support the work of the state board. The state board shall meet on call of the chairperson, at least once quarterly, or as often as necessary to fulfill its duties. All meetings and records of the state board shall be open to the public.

The state board shall have all of the following powers, duties and responsibilities:

(a) Recommend that independent studies, investigations, and hearings on the health of women, children, and adolescents and the system of health services for women, children, and adolescents be conducted.

(b) Review health programs which serve women, children, and adolescents and recommend steps to facilitate service delivery.

(c) Identify deficiencies and barriers in the maternal, child, and adolescent health delivery system on a statewide basis, and recommend priorities for remedy.

(d) Review, during the development stage, any plans developed by the department for establishment of new or for major revision to, existing health programs for women, children, and adolescents and make recommendations on those plans.

(e) Receive from the department for review and comment, prior to their adoption and prior to public hearing if a public hearing is required, rules, regulations, and standards affecting maternal, child, and adolescent health. These may include, but not be limited to, the following:

(1) Review of standards for health screening, evaluation, and diagnostic procedures for community maternal, child, and adolescent health programs.

(2) Review of standards for directors of community maternal, child, and adolescent health programs.

(3) Review of standards for public and private health providers, facilities, and agencies which participate in community maternal, child, and adolescent health programs.

(f) Review and comment upon any proposed written department policies that would have a significant effect on maternal, child, and adolescent health programs as determined by the board.

(g) Review policies and develop recommendations regarding:

(1) Health goals with measurable objectives for women, children and adolescents in California.

(2) Range of services currently available and systems to assure coordination of services for women, children, and adolescents,

including fiscal aspects thereof.

(h) Review reports and respond to needs and recommendations of the local boards.

(i) Work with local boards to evaluate the success of established programs and assess the potential viability of proposed programs.

The provisions of this section shall remain in effect only until January 1, 1992, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1992, deletes or extends that date.

SEC. 2. Section 321.7 of the Health and Safety Code is amended to read:

321.7. Local maternal, child, and adolescent health boards are hereby established to advise governing bodies and local health officers on local programs and services affecting the health of women, children, and adolescents. The local board shall be appointed by the governing body and shall reflect the demographic and ethnic characteristics of the geographic area served. A governing body may constitute local boards on a subcounty basis or the governing boards of more than one area may constitute boards on a multicounty basis, as appropriate. Local boards shall supersede and incorporate the local child health and disability prevention program advisory board and may supersede and incorporate any other bodies advisory to local government on maternal, child, and adolescent health programs. Each local board shall include individuals who are eligible or who are parents of children eligible for health services administered by the department, representatives from health professions and organizations concerned with maternal, child, and adolescent health, a school health representative, members of existing local groups advisory to maternal, child, and adolescent health programs in the jurisdiction, and other individuals interested in the health of women, children, and adolescents.

The local health officer, or officers in the case of a multicounty board, shall be responsible for providing support staff and services to the local board from state or federal funding presently utilized for planning and organizing maternal, child, and adolescent health services. Counties shall not be required to expend more funds than presently are being expended for the purpose of this section and shall include the costs in any annual maternal, child, and adolescent health plan is required for department approval. Local board members shall serve without compensation, except that members shall be reimbursed for actual and necessary expenses incurred in connection with the performance of their duties. Members may additionally be reimbursed upon request to the appropriate governing body for their actual and necessary additional costs of child care and lost wages.

Each local board shall have all of the following powers, duties, and responsibilities:

(a) Review the community's maternal, child, and adolescent health needs and the adequacy of health care services, programs,

providers, and facilities to meet those needs.

(b) Review and comment during the development and adoption of the required annual local maternal and child health services plan. The plan shall address strategies for coordinating and integrating local maternal, child, and adolescent health programs and planning processes.

(c) Advise the appropriate governing body or bodies and local health officer or officers on methods of integration at the local level of categorical programs affecting the health of women, children, and adolescents, including, but not limited to:

(1) Proposing specific models, including funding levels, which integrate maternal and child health services at the local level which are consistent with state guidelines and the local maternal and child health plan.

(2) Disseminating information on and recommending uses of block grant funding or other financing methods which may be made available to the local jurisdiction.

(3) Monitoring and evaluating model integrated delivery systems as to outcome and cost effectiveness, and recommending termination or continuation of the models based on the review.

(d) Review local health statistics and program data to assess improvement in the overall health status of women, children, and adolescents.

(e) Provide formal written input on local maternal, child and adolescent health services and needs to the local health planning agencies for inclusion in plans for health services and local proposed use of available funds.

(f) Determine the concerns of consumers and local service providers in regard to maternal, child, and adolescent health.

(g) Provide input to the state board to assure that policy advice given to the department reflects local needs.

(h) Review and comment to the governing body on local implications of reports, recommendations and actions of the state board. Local individuals and organizations may respond to the actions of the local board in their jurisdiction by submitting written comments to the appropriate governing body or bodies and the appropriate local health officer or officers.

The local board may also perform any other duties relating to maternal, child, and adolescent child health which may be delegated to it by the appropriate governing body or bodies.

The provisions of this section shall remain in effect only until January 1, 1992, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1992, deletes or extends that date.

SEC. 3. Section 1 of Chapter 1038 of the Statutes of 1981 is amended to read:

Section 1. It is the intent of the Legislature to continue a State Maternal, Child, and Adolescent Health Board, advisory to the State Department of Health Services in order to assure broad public input

and provide consistent statewide policy advice supporting the coordination and integration of state programs serving women, children, and adolescents. Further, it is the intent of the Legislature to continue to improve coordination and to promote an innovative and integrated maternal, child, and adolescent health system at the local level, by continuing local maternal, child, and adolescent health boards which may supersede and incorporate other local bodies advisory to local government on programs affecting the health of women, children, and adolescents.

SEC. 4. Reimbursement to local agencies and school districts for costs mandated by the state pursuant to this act shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code and, if the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), shall be made from the State Mandates Claims Fund.

CHAPTER 964

An act to add Article 7.3 (commencing with Section 51775) to Chapter 5 of Part 27 of the Education Code, relating to schools, and making an appropriation therefor.

[Approved by Governor September 25, 1985 Filed with Secretary of State September 26, 1985]

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

SECTION 1. Article 7.3 (commencing with Section 51775) is added to Chapter 5 of Part 27 of the Education Code, to read:

Article 7.3. Work Experience Education Program Reviews

51775. The Legislature hereby finds and declares that work experience education is an integral part of the total educational process of pupils, and that work experience education can provide opportunities for pupils to acquire lifelong employability skills, as well as opportunities for pupils to develop general and specific occupational skills.

The Legislature recognizes that there is a need to provide for the review of work experience education programs offered by school districts offering these programs at least once every three years, in accordance with regulations prescribed by the Superintendent of Public Instruction.

It is the intent of the Legislature in enacting this article to establish a mechanism for the review and improvement of work experience education programs offered in the public schools to ensure that pupils receive high quality instruction. It is further the intent of the

Legislature to establish a system whereby school districts and county offices of education may form consortia for purposes of conducting quality reviews of work experience education programs and for the sharing of information, resources, and technical assistance.

51776. The governing board of each school district offering work experience education programs may elect to provide for independent onsite program review of work experience education programs at least once every three years in the district offering these programs. If the governing board elects to provide for an independent onsite program review, it shall not be required to participate in the federally required consolidated compliance review conducted by the State Department of Education.

51777. (a) For purposes of facilitating the program reviews required by Section 51776, the governing boards of two or more school districts may agree to establish a consortium of participating school districts. The Superintendent of Public Instruction may determine whether the size of a school district would be counterproductive to the establishment of a consortium with that school district and another school district, thereby making it advisable that the school district is reviewed by its own certified program reviewers. In cases in which the Superintendent of Public Instruction has determined that the onsite review shall be conducted by certified program reviewers from that district, the reviewers may conduct reviews in any school of the district other than the school in which they are employed. In all other onsite reviews, the reviews shall not be conducted by persons who are employed by the district.

(b) Each consortium shall maintain a list of available certified program reviewers submitted by participating school districts.

(c) Trained members of each consortium shall review work experience education programs in participating school districts. A report on the results of the review shall be submitted to the governing board of the school district, the State Department of Education, and the Work Experience Education Consortia Steering Committee established under Section 51778.

51778. (a) The Superintendent of Public Instruction shall establish a Work Experience Education Consortia Steering Committee comprised of certificated representatives of consortia of school districts established under this article. The steering committee, in consultation with the Superintendent of Public Instruction, utilizing applicable program standards and regulations regarding work experience education programs shall develop all of the following materials:

(1) Program quality indicators.

(2) Training materials.

(3) Guide books.

(4) Program review reports.

(b) The Work Experience Education Consortia Steering Committee shall contract with appropriate personnel to conduct in-service training programs for work experience education teachers

and coordinators who will be conducting school site reviews of work experience education programs. The training shall include, but is not necessarily limited to, all of the following:

(1) A program quality review instrument.

(2) The compliance review instrument developed by the State Department of Education.

(3) Reporting and review materials.

(4) Program review methodologies.

(5) The preparation of summary reports.

Only persons who have been certified by the steering committee as having completed the training program shall be eligible to conduct work experience education program quality reviews.

(c) Utilizing the compliance review instrument described in paragraph (2) of subdivision (b), the advisory committee shall recommend a followup review for schools that have not met a prescribed number of the work experience education compliance criteria. The followup review required by this subdivision shall be conducted within one year of the initial review.

At the conclusion of the followup review required by this subdivision, the steering committee shall prepare a report regarding the areas of compliance and noncompliance with this code and with the criteria prescribed by the State Department of Education. Copies of the steering committee's report shall be submitted to the State Department of Education and the governing board of each school district reviewed.

(d) The steering committee shall submit an annual report to the State Department of Education and to the Legislature by March 1 of each year. The report shall include, but need not be limited to, all of the following:

(1) The number of work experience education programs reviewed.

(2) The extent to which each work experience education program meets program review quality indicators prescribed by the quality review instruments.

(3) The number of schools receiving technical assistance with respect to improving their work experience education programs.

The State Department of Education shall monitor the annual reports on a selective basis to ensure that the program reviews have been conducted in an appropriate manner.

SEC. 2. (a) The sum of one hundred twenty-six thousand dollars ($126,000) is hereby appropriated from the General Fund to the State Department of Education for the 1985–86 fiscal year for costs incurred, including administrative costs incurred by the department, in implementing Article 7.3 (commencing with Section 51775) of Chapter 5 of Part 27 of the Education Code. It is the intent of the Legislature that equivalent funding for these purposes shall be included in the Budget Act for the 1986–87 and 1987–88 fiscal years.

(b) The State Department of Education may contract for administrative services provided for work experience education

program quality reviews.

CHAPTER 965

An act to amend Sections 50280, 50281, 50282, 50284, and 50290 of, to add Sections 50280.1 and 50281.1 to, to repeal and add Section 12233 of, and to repeal Section 50283 of, the Government Code, and to amend Section 439.1 of the Revenue and Taxation Code, relating to historical property, and making an appropriation therefor.

[Approved by Governor September 25, 1985 Filed with Secretary of State September 26, 1985]

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

SECTION 1. Section 12233 of the Government Code is repealed.

SEC. 1.5. Section 12233 is added to the Government Code, to read:

12233. (a) The Secretary of State shall conduct under the administration of the State Archives a regular governmental history documentation program to provide through the use of oral history a continuing documentation of state policy development as reflected in California's legislative and executive history. The secretary may contract with oral history units affiliated with public or private nonprofit colleges, universities, or historical societies located in California to perform selected program activities. The secretary shall prescribe professional standards for the accomplishment and governance of the program.

(b) The Secretary of State shall submit annually a report to the Legislature on the program conducted pursuant to this section.

SEC. 1.7. Section 50280 of the Government Code is amended to read:

50280. Upon the application of an owner or the agent of an owner of any qualified historical property, as defined in Section 50280.1, the legislative body of a city, county, or city and county may contract with the owner or agent to restrict the use of the property in a manner which the legislative body deems reasonable to carry out the purposes of this article and of Article 1.9 (commencing with Section 439) of Chapter 3 of Part 2 of Division 1 of the Revenue and Taxation Code. The contract shall meet the requirements of Sections 50281 and 50282.

SEC. 2. Section 50280.1 is added to the Government Code, to read:

50280.1. "Qualified historical property" for purposes of this article, means privately owned property which is not exempt from property taxation and which meets either of the following:

(a) Listed in the National Register of Historic Places or located in a registered historic district, as defined in Section 1.191-2(b) of Title

26 of the Code of Federal Regulations.

(b) Listed in any state, city, county, or city and county official register of historical or architecturally significant sites, places, or landmarks.

SEC. 3. Section 50281 of the Government Code is amended to read:

50281. Any contract entered into under this article shall contain the following provisions:

(a) The term of the contract shall be for a minimum period of 10 years.

(b) Where applicable, the contract shall provide the following:

(1) For the preservation of the qualified historical property and, when necessary, to restore and rehabilitate the property to conform to the rules and regulations of the Office of Historic Preservation of the Department of Parks and Recreation.

(2) For the periodic examinations of the interior and exterior of the premises by the assessor, the Department of Parks and Recreation, and the State Board of Equalization as may be necessary to determine the owner's compliance with the contract.

(3) For it to be binding upon, and inure to the benefit of, all successors in interest of the owner. A successor in interest shall have the same rights and obligations under the contract as the original owner who entered into the contract.

SEC. 4. Section 50281.1 is added to the Government Code, to read:

50281.1. The legislative body entering into a contract described in this article may require that the property owner, as a condition to entering into the contract, pay a fee not to exceed the reasonable cost of administering this program.

SEC. 5. Section 50282 of the Government Code is amended to read:

50282. (a) Each contract shall provide that on the anniversary date of the contract or such other annual date as is specified in the contract, a year shall be added automatically to the initial term of the contract unless notice of nonrenewal is given as provided in this section. If the property owner or the legislative body desires in any year not to renew the contract, that party shall serve written notice of nonrenewal of the contract on the other party in advance of the annual renewal date of the contract. Unless the notice is served by the owner at least 90 days prior to the renewal date or by the legislative body at least 60 days prior to the renewal date, one year shall automatically be added to the term of the contract.

(b) Upon receipt by the owner of a notice from the legislative body of nonrenewal, the owner may make a written protest of the notice of nonrenewal. The legislative body may, at any time prior to the renewal date, withdraw the notice of nonrenewal.

(c) If the legislative body or the owner serves notice of intent in any year not to renew the contract, the existing contract shall remain in effect for the balance of the period remaining since the original

execution or the last renewal of the contract, as the case may be.

(d) The owner shall furnish the legislative body with any information the legislative body shall require in order to enable it to determine the eligibility of the property involved.

(e) No later than 20 days after a city or county enters into a contract with an owner pursuant to this article, the clerk of the legislative body shall record with the county recorder a copy of the contract, which shall describe the property subject thereto. From and after the time of the recordation, this contract shall impart a notice thereof to all persons as is afforded by the recording laws of this state.

SEC. 6. Section 50283 of the Government Code is repealed.

SEC. 7. Section 50284 of the Government Code is amended to read:

50284. The legislative body may cancel a contract if it determines that the owner has breached any of the conditions of the contract provided for in this article or has allowed the property to deteriorate to the point that it no longer meets the standards for a qualified historical property. The legislative body may also cancel a contract if it determines that the owner has failed to restore or rehabilitate the property in the manner specified in the contract.

SEC. 8. Section 50290 of the Government Code is amended to read:

50290. Local agencies and owners of qualified historical properties may consult with the State Historical Resources Commission for its advice and counsel on matters relevant to historical property contracts.

SEC. 9. Section 439.1 of the Revenue and Taxation Code is amended to read:

439.1. For purposes of this article "restricted historical property" means qualified historical property, as defined in Section 50280.1 of the Government Code, which is subject to a historical property contract executed pursuant to Article 12 (commencing with Section 50280) of Chapter 1 of Part 1 of Division 1 of Title 5 of the Government Code.

SEC 10. The sum of eighty-five thousand dollars ($85,000) is hereby appropriated from the General Fund to the Secretary of State for the period January 1, 1986, to July 1, 1986, for purposes of the governmental history documentation program authorized by Section 12233 of the Government Code.

Program funding for subsequent fiscal years shall be allocated as part of the annual state budget process. Funds may be carried over to subsequent fiscal years to complete elements of the program initiated but not yet completed in any given fiscal year.

CHAPTER 966

An act to amend Sections 2810 and 2810.5 of, and to add Section 2818 to the Penal Code, relating to prisons, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1985. Filed with Secretary of State September 26, 1985]

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

SECTION 1. Section 2810 of the Penal Code is amended to read:

2810. The board may authorize the borrowing of money by the authority for purposes of:

(a) Operating the business affairs of the authority.

(b) Purchasing new equipment, materials and supplies.

(c) Constructing new facilities, or repairing, remodeling, or demolishing old facilities. Funds may be borrowed from private sources, upon such terms as the board deems appropriate, including but not limited to, the use of equipment under the jurisdiction of the authority, and of the future income of an enterprise under the jurisdiction of the authority, as collateral to secure any loan.

SEC. 2. Section 2810.5 of the Penal Code is amended 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.

Prior to making its decision to grant a loan, the Pooled Money Investment Board shall require the authority to demonstrate all of the following:

(a) The proposed industry project cannot be feasibly financed from private sources under Section 2810. The authority shall present proposed loan conditions from at least two private sources.

(b) The proposed industry project cannot feasibly be financed from proceeds from other Prison Industry Authority enterprises.

(c) The proceeds from the proposed project provide for a reasonable payback schedule to the General Fund.

SEC. 3. Section 2818 is added to the Penal Code, to read:

2818. The New Industries Revolving Account is hereby created in the Prison Industries Revolving Fund to receive General Fund or other public money transferred or deposited for the purpose of financing new enterprises or the expansion of existing enterprises. Money in the fund may be disbursed by the board subject to the conditions prescribed in Section 2810.5.

SEC. 4. This act shall not become operative unless both this bill and A.B. 727 of the 1985–86 Regular Session of the Legislature are enacted, in which case this bill shall become operative on the effective date of the bill that is enacted last.

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 establish the new prison industry enterprises needed at prison complexes currently under construction and to reduce the growing prisoner job waiting list, it is necessary that this act go into immediate effect.

CHAPTER 967

An act to add Section 50712.5 to the Health and Safety Code and to repeal Chapter 1689 of the Statutes of 1984, relating to migrant labor, and making an appropriation therefor.

[Approved by Governor September 25, 1985 Filed with Secretary of State September 26, 1985]

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

SECTION 1. Chapter 1689 of the Statutes of 1984 is repealed.

SEC. 2. The Legislature finds and declares that there is a severe shortage of decent, safe, and sanitary housing that is affordable to California's agricultural employees. The absence of an adequate supply of housing aggravates the problem of growers in ensuring an available labor supply and is inimical to the health and safety of employees. These employees have no alternative but to crowd into dilipated housing or live in cars and orchards. These conditions adversely affect the productivity of California's number one industry, agriculture, and has deleterious effects on public health and the health of consumers.

The Legislature further finds and declares that it is not feasible for all agricultural employers, particularly small family farmers, to build and maintain housing for their employees. The programs provided by the state and federal governments have been unable to meet the need that exists and further action is necessary to help meet the needs of farm labor employers and employees for more labor housing. It is a valid and worthwhile public purpose to provide incentives to ensure an available supply of labor to employers and decent housing to employees.

SEC. 3. Section 50712.5 is added to the Health and Safety Code, to read:

50712.5. (a) The Department of Housing and Community Development, through its Office of Migrant Services, pursuant to the

authority granted in subdivision (n) of Section 50406 and Section 50710 shall assist in the development of at least 100 family units in migrant farm labor centers. The department shall first encourage the development of the family units in migrant farm labor centers in the Counties of Imperial, San Diego, Riverside, and Madera. On or before September 30, 1986, if the department determines in the case of the County of Imperial, San Diego, Riverside, or Madera that available federal, state, and local contributions and funds are not adequate, or that for other reasons it is infeasible to develop the family units in centers in any of these designated counties, the department shall offer the assistance authorized by this section in another county or counties where the department determines there is a substantial unmet need for migrant farm labor housing.

(b) The department shall use the funds appropriated by the act adding this section, during the 1985–86 Regular Session, and any excess funds appropriated for the purposes of the Office of Migrant Services by Chapter 111 of the Statutes of 1985 or any subsequent budget acts, to maximize the utility of any other local, federal, state or private funds or other assistance made available for the purposes of this section. These appropriated funds may be used for costs including, but not limited to, the following items:

(1) Predevelopment costs incurred in the process of securing construction or long-term financing such as site development and architectural, engineering, or legal expenses, or construction costs, including construction interest, or both. These costs shall not be subject to reimbursement from construction or permanent financing, as the case may be, if the reimbursement would contribute to, or result in, rents substantially in excess of those in other migrant farm labor centers assisted by the Office of Migrant Services, as determined by the department.

(2) A grant or deferred payment loan which may be forgiven, matching or supplementing the permanent financing or grant made available by a federal, state, or local housing assistance program.

(3) Operating cost reductions to the extent necessary to ensure that the rents in the migrant farm center are not substantially in excess of those in other migrant farm labor centers operated by the Office of Migrant Services.

(c) The department shall seek the maximum possible contribution of funds, land, and other incentives from local, federal, and private sources for all the purposes described in subdivision (b). The expenditure of funds authorized by this section shall not be used for any migrant farm labor center unless the department determines that it is likely that at least 75 percent of the final development cost of that center will be provided as a grant or a loan, or both, as contributions of funds, land, and other incentives by any combination of local, federal, and private sources.

(d) To the extent that any migrant farm labor center assisted pursuant to this section is financed or otherwise assisted by the United States Farmers Home Administration, and to the extent the

Farmers Home Administration requires compliance with construction, operating, term of use, or residency standards which differ from those required by the department pursuant to regulations adopted to implement and interpret this chapter, those Farmers Home Administration standards shall supersede the department's regulations.

(e) If all the development costs of any migrant farm labor center assisted pursuant to this section are provided by federal, state, or local grants, and if no funds are available from any federal, state, or local service to write-down operating costs, the department may approve rents for that center which are in excess of rents charged in other centers assisted by the Office of Migrant Services. However, prior to approving these rents, the department shall consider the adequacy of evidence presented by the agency operating the center that the rents reimburse actual, reasonable, and necessary costs of operation and that any reserve funds are not in excess of actual needs anticipated within the next three years.

SEC. 4. The Legislature finds that it is too speculative to determine the income levels of the migrant agricultural workers residing in migrant farm labor centers at any given time and that many of these workers earn sufficient income, when they are employed, to qualify as persons and families of moderate income. Therefore, the Legislature finds and declares that the farm labor housing assisted pursuant to Chapter 8.5 (commencing with Section 50710) of Part 1 of Division 31 of the Health and Safety Code is not a low-rent housing project, as defined by Section 1 of Article XXXIV of the California Constitution.

SEC. 5. The Department of Housing and Community Development shall report to the Legislature every six months until any funds appropriated by the Legislature, prior to July 1, 1987, for the development of the centers described in Section 50712.5 of the Health and Safety Code are expended. The reports shall include a progress statement on the projects, and shall specify what steps are being taken by the department to seek federal, local, and private contributions of funds, land, and other incentives as required by Section 50712.5 of the Health and Safety Code.

SEC. 6. The sum of one million four hundred thousand dollars ($1,400,000) is hereby appropriated from the General Fund to the Department of Housing and Community Development for expenditure without regard to fiscal years, for purposes of this act.

CHAPTER 968

An act to amend Sections 10270.5 and 11512.2 of the Insurance Code, relating to insurance.

[Approved by Governor September 25, 1985 Filed with Secretary of State September 26, 1985.]

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

SECTION 1. Section 10270.5 of the Insurance Code is amended to read:

10270.5. Group disability insurance is that form of disability insurance which conforms to all of the following conditions:

(a) Written under a master policy,

(1) Issued either to the federal or state government, or to any federal or state agency, political subdivision or district, or to any public, governmental, or municipal corporation, or to any unit, agency or department thereof, or to any corporation, copartnership or individual employer, or to the trustee of any association of employers, offering insurance to all the employees of any such employer or of the employer members of such association or to all of any class or classes thereof determined by conditions pertaining to employment and covering not less than 10 such employees or such employees together with their dependents or spouses for amounts of insurance based upon some plan which will preclude individual selection by the employee as to the amount of his insurance coverage thereunder; or

(2) Issued to a principal eligible to have issued to him a policy of group life insurance under the provisions of Section 10203.7 and insuring not less than 10 agents as defined in that section and eligible thereunder to be insured, or such agents together with their dependents or spouses; or

(3) Issued to any association having a constitution and bylaws and formed and continuously maintained in good faith for purposes other than that of obtaining insurance, offering insurance to all the eligible members, or class of members, of such association and covering not less than 10 such members or such members together with their dependents or spouses and not less than 25 percent of all eligible members, or class of members, for amounts of insurance based upon some plan which will preclude individual selection by the member as to the amount of his insurance coverage thereunder. If the master policy is to be issued to cover members of labor unions, it may be issued to more than one such union; or

(4) Issued to an association or to a trust, or to the trustees of a fund established, created, or maintained for the benefit of members of one or more associations. The association or associations shall have at the outset a minimum membership of 100 persons, and shall be organized and maintained in good faith for purposes other than that of obtaining insurance. The association or associations shall have been in active existence for at least two years, and shall have a constitution and bylaws which require regular meetings not less than annually to further purposes of the members. The members shall have voting privileges and representation on the governing board or

boards and committees. The policy shall be subject to the following requirements:

(A) The policy may insure members of the association or associations, and employees thereof.

(B) The premium for the policy shall be paid from funds contributed by the association or associations, or by members, or by both, or from funds contributed by the covered persons, or from both the covered persons and the association.

(C) A policy on which no part of the premium is to be derived from funds contributed by the covered persons specifically for the insurance shall insure all eligible persons, except those who, in writing, reject the coverage.

(5) Issued to any trustees eligible to have issued to them a policy of group life insurance under the provisions of Section 10202.8 and insuring not less than 10 employees or members eligible thereunder to be insured or such employees or members together with their dependents or spouses; or

(6) Issued to a school district or districts or to the governing board of any school district or districts or to a private or parochial school or schools or to the governing board or person in charge of the operation of any private or parochial school or schools, insuring not less than 50 pupils of the school or district and providing benefits to pupils or persons responsible for their support for death or dismemberment resulting from accident or for hospital, medical and surgical expenses resulting from accident to such pupils while they are in or on buildings or premises of the schools or districts during the time such pupils are required to be therein or thereon by reason of their attendance upon a college or a regular day school or any regular day school of a school district or districts or while being transported by the school or schools or district or districts to and from school or other place of instruction or while at any other place as an incident to school sponsored activities and while being transported to, from and between such places; and under which

(b) Transmission or collection of all premiums or premium contributions shall be performed by the policyholder, except where the policy specifies the persons other than the policyholder by whom such transmission or collection shall be made, and in one of the following situations:

(1) If such policy covers the employees of more than one employer, the insurer may collect premium contributions from individual employers whose employees are insured or may assist the policyholder in making such collections. If the employees of more than 100 such employers are covered under such policy, it shall state as a separate part of the premium to be charged for the policy the amount to be charged by the insurer for such collection.

(2) If the policy covers a group of governmental employees and the governmental unit paying such employees will not transmit their premium contribution after payroll deduction, the insurer may collect from the individual employees. If more than 100 such

employees are covered under such policy, it shall state as a separate part of the premium to be charged for the policy the amount to be charged by the insurer for such collection.

(3) If individual members of the group make payment of their share of the premium contribution to the insurer with or without billing or solicitation by the insurer during a period of temporary absence from active work of not exceeding 90 days, such payment may be received without the necessity of any separately stated charge by the insurer.

(4) If the policy covers the members of an association, the insurer may collect premium contributions from individual members or may assist the policyholder in making such collections. If more than 100 such members are covered under such policy, it shall state as a part of the premium to be charged for the policy the amount to be charged by the insurer for such collection.

(c) There is issued and delivered in accordance with the policy provision required by subdivision (b) of Section 10270.6 an individual certificate setting forth the benefits and the exceptions under, and referring to, the master policy under which the certificate is issued.

Such certificates are not subject to the provisions of this chapter relating to the master policy, but the forms thereof shall be submitted to the commissioner for his or her approval and shall not be issued without such approval of such forms in the manner provided in the case of the master policy.

SEC. 2. Section 11512.2 of the Insurance Code is amended to read:

11512.2. Group hospital service contracts may be issued in conformity with all of the following conditions:

(a) Written under a master hospital service contract,

(1) Issued either to the federal or state government, or to any federal or state agency, political subdivision or district, or to any public, governmental, or municipal corporation, or to any unit, agency, or department thereof, or to any corporation, copartnership or individual employer, or to the trustee of any association of employers, offering hospital services to all the employees of any such employer or of the employer members of such association or to all of any class or classes thereof determined by conditions pertaining to employment and covering not less than 10 such employees or such employees together with their dependents or spouses for amounts of hospital services based upon some plan which will preclude individual selection by the employee as to the amount of hospital services he may obtain thereunder; or

(2) Issued to any association having a constitution and bylaws and formed in good faith for purposes other than that of obtaining insurance offering hospital services to all the members, or class of members, of such association and covering not less than 10 such members or such members together with their dependents or spouses and not less than 25 percent of all eligible members, or class of members, for amounts of hospital services based upon some plan

which will preclude individual selection by the member as to the amount of hospital services he may obtain thereunder. Any such master hospital service contract shall by its terms require the rates, dues, fees or other periodic charges to be paid to the corporation either by means of payroll deduction or periodically by some designated person acting on behalf of the association covered; or

(3) Issued to an association or to a trust, or to the trustees of a fund established, created, or maintained for the benefit of members of one or more associations. The association or associations shall have at the outset a minimum membership of 100 persons, and shall be organized and maintained in good faith for purposes other than that of obtaining insurance. The association or associations shall have been in active existence for at least two years, and shall have a constitution and bylaws which require regular meetings not less than annually to further purposes of the members. The members shall have voting privileges and representation on the governing board or boards and committees. The policy shall be subject to the following requirements:

(A) The policy may insure members of the association or associations, and employees thereof.

(B) The premium for the policy shall be paid from funds contributed by the association or associations, or by members, or by both, or from funds contributed by the covered persons, or from both the covered persons and the association.

(C) A policy on which no part of the premium is to be derived from funds contributed by the covered persons specifically for the insurance shall insure all eligible persons, except those who, in writing, reject the coverage.

(4) Issued to any trustees eligible to have issued to them a policy of group life insurance under the provisions of Section 10202.8 and covering not less than 10 employees or members eligible thereunder to be covered or such employees or members together with their dependents or spouses; and under which

(b) For delivery to each person covered under the master hospital service contract, other than dependents or spouses of an insured employee or person, there is issued to the holder of such master hospital service contract by the corporation an individual certificate setting forth the benefits and the exceptions under, and referring to, the master hospital service contract under which the certificate is issued.

(c) In the case of a group contract providing comprehensive health care services issued under Section 11493(e), no such group contract may be offered to any group unless at least one alternative arrangement providing health care services is available to all members of the group which affords free choice among physicians, dentists, other practitioners of the healing arts, pharmacists, pharmacies and health facilities to individual members of the group to the extent such services are made available thereunder.

SEC. 3. It is the intent of the Legislature in enacting this act to

alleviate the rigidity of California insurance law pertaining to the kind of groups to whom disability insurers and nonprofit hospital service plans may sell health insurance. This enactment seeks to encourage the issuance of group contracts in California to qualified associations and trusts, and to discourage the avoidance of California law through the issuance of group contracts in other states.

CHAPTER 969

An act to add Article 5 (commencing with Section 58101) to Chapter 1 of Part 1 of Division 21 of the Food and Agricultural Code, relating to rural products.

[Approved by Governor September 25, 1985 Filed with Secretary of State September 26, 1985]

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

SECTION 1. Article 5 (commencing with Section 58101) is added to Chapter 1 of Part 1 of Division 21 of the Food and Agricultural Code, to read:

Article 5. Direct Marketing

58101. The Legislature finds and declares all of the following with regard to the direct marketing of agricultural products:

(a) Direct marketing of agricultural products benefits the agricultural community and the consumer by, among other things, providing an alternative method for growers to sell their products while benefiting the consumer by supplying quality produce at reasonable prices.

(b) Direct marketing is a good public relations tool for the agricultural industry by bringing the farmer face-to-face with consumers.

(c) The marketing potential of a wide variety of California-produced agricultural products should be maximized.

(d) The department should maintain a direct marketing program and the industry should continue to encourage the sale of California-grown fresh produce.

(e) A regulatory scheme should be developed which provides flexibility that will make direct marketing a viable alternative without disrupting other produce marketing systems.

(f) The department should assist producers in organizing certified farmers' markets and other forms of direct marketing by providing technical advice on marketing methods and in complying with the rules and regulations that affect direct marketing programs.

(g) The department is encouraged to establish an ad hoc advisory committee to assist the department in establishing regulations

affecting direct marketing of products and to advise the director in all matters pertaining to direct marketing.

58101.5. (a) The director may adopt regulations to allow and encourage the direct sale by farmers to consumers of all types of agricultural products produced within the state, including, but not limited to, fruits, nuts, vegetables, beef, lamb, pork, poultry and poultry products, honey, and wine.

(b) These regulations may include provisions to ensure and maintain quality and wholesomeness of the products.

58102. The director may adopt regulations to exempt any products from established grade, size, labeling, packaging, and other requirements, if the director finds that the requirements unnecessarily increase the cost of marketing the products directly to the consumer, and if the director finds that the exemption will not adversely affect the orderly marketing of California agricultural products. In adopting any proposed regulations pursuant to this section, the director shall take into consideration any adverse effects the proposed regulations may have on producers, wholesalers, retailers, and consumers. No exemption shall be issued which would allow the quality of any product sold directly to the consumer to be below the minimum established by the director under other regulations.

58103. The director may establish qualifications for persons selling products directly to consumers whenever the sales involve the use of any exemption granted by the director. Sales outlets may likewise be subject to qualifications.

58104. (a) The director may allow sales outlets to establish rules and procedures which are more stringent or do not violate state law or regulation governing their regulation.

(b) Any person aggrieved by the implementation of a rule or procedure established by a sales outlet under subdivision (a) may appeal to the director within the time period and by the means specified by the director by regulation.

CHAPTER 970

An act to amend Section 55741 of the Food and Agricultural Code, relating to agricultural harvesting.

[Approved by Governor September 25, 1985 Filed with Secretary of State September 26, 1985]

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

SECTION 1. Section 55741 of the Food and Agricultural Code is amended to read:

55741. (a) The director upon his or her own motion may, or upon the verified complaint of any interested party shall, investigate,

examine, or inspect any transaction which involves the failure of the processor to make payment for any farm product within the time which is specified for payment in the contract of sale and purchase between the producer and the processor, in accordance with the terms of the contract or in accordance with this chapter.

(b) The director upon his or her own motion may, or upon the verified complaint of a producer shall, investigate, examine, or inspect any transaction which involves the failure of a processor who contracts to harvest a producer's crop to fulfill the terms of the contract.

CHAPTER 971

An act to add Section 1367.4 to the Health and Safety Code, and to amend Section 10144 of, and to add Section 10145 to, the Insurance Code, relating to insurance.

[Approved by Governor September 25, 1985 Filed with Secretary of State September 26, 1985]

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

SECTION 1. Section 1367.4 is added to the Health and Safety Code, to read:

1367.4. No plan issuing, providing, or administering any contract of individual or group coverage providing medical, surgical, or dental expense benefits applied for and issued on or after January 1, 1986, shall refuse to cover, or refuse to continue to cover, or limit the amount, extent, or kind of coverage available to an individual, or charge a different rate for the same coverage solely because of blindness or partial blindness.

"Blindness or partial blindness" means central visual acuity of not more than 20/200 in the better eye, after correction, or visual acuity greater than 20/200 but with a limitation in the fields of vision so that the widest diameter of the visual field subtends an angle no greater than 20 degrees, certified by a licensed physician and surgeon who specializes in diseases of the eye or a licensed optometrist.

SEC. 1.5. Section 10144 of the Insurance Code is amended to read:

10144. No insurer issuing, providing, or administering any contract of individual or group insurance providing life, annuity, or disability benefits applied for and issued on or after January 1, 1984, shall refuse to insure, or refuse to continue to insure, or limit the amount, extent, or kind of coverage available to an individual, or charge a different rate for the same coverage solely because of a physical or mental impairment, except where the refusal, limitation or rate differential is based on sound actuarial principles or is related to actual and reasonably anticipated experience.

"Physical or mental impairment" means any physical, sensory, or mental impairment which substantially limits one or more of that person's major life activities.

SEC. 2. Section 10145 is added to the Insurance Code, to read:

10145. No insurer issuing, providing, or administering any contract of individual or group insurance providing life, annuity, or disability benefits applied for and issued on or after January 1, 1986, shall refuse to insure, or refuse to continue to insure, or limit the amount, extent, or kind of coverage available to an individual, or charge a different rate for the same coverage solely because of blindness or partial blindness.

"Blindness or partial blindness" means central visual acuity of not more than 20/200 in the better eye, after correction, or visual acuity greater than 20/200 but with a limitation in the fields of vision so that the widest diameter of the visual field subtends an angle no greater than 20 degrees, certified by a licensed physician and surgeon who specializes in diseases of the eye or a licensed optometrist.

SEC. 3. It is the intent of the Legislature that, with respect to all other conditions, including the underlying cause of the blindness or partial blindness, persons who are blind or partially blind shall be subject to the same standards of sound actuarial principles or actual and reasonably anticipated experience as are sighted persons.

The Legislature further declares that a refusal to insure includes denial by an insurer of disability insurance coverage or a health care service plan on the grounds that the policy defines "disability" as being presumed in the event that the insured loses his or her eyesight. However, an insurer or a health care service plan may exclude from coverage disabilities, consisting solely of blindness or partial blindness when that condition existed at the time the policy was issued.

CHAPTER 972

An act to add Article 5s (commencing with Section 998.074) to Chapter 6 of Division 4 of the Military and Veterans Code, relating to financing of a program to provide farm and home aid for veterans in accordance with the Veterans' Farm and Home Purchase Act of 1974, and acts amendatory thereof and supplemental thereto, through the issuance and sale of bonds of the State of California and by providing for the disposition of those funds, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1985 Filed with Secretary of State September 26, 1985]

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

SECTION 1. Article 5s (commencing with Section 998.074) is added to Chapter 6 of Division 4 of the Military and Veterans Code, to read:

Article 5s. Veterans Bond Act of 1986

998.074. This article may be cited as the Veterans Bond Act of 1986.

998.075. The State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code), except as otherwise provided herein, is adopted for the purpose of the issuance, sale, and repayment of, and otherwise providing with respect to, the bonds authorized to be issued by this article, and the provisions of that law are included in this article as though set out in full in this article. All references in this article to "herein" refer both to this article and that law.

998.076. As used herein, the following words shall have the following meanings:

(a) "Bond" means veterans bond, a state general obligation bond issued pursuant to this article adopting the provisions of the State General Obligation Bond Law.

(b) "Committee" means the Veterans' Finance Committee of 1943.

(c) "Board" means the Department of Veterans Affairs.

(d) "Fund" means the Veterans' Farm and Home Building Fund of 1943.

(e) "Bond Act" means this article authorizing the issuance of state general obligation bonds and adopting the State General Obligation Bond Law by reference.

998.077. For the purpose of creating a fund to provide farm and home aid for veterans in accordance with the Veterans' Farm and Home Purchase Act of 1974 (Article 3.1 (commencing with Section 987.50)), and of all acts amendatory thereof and supplemental thereto, the committee may create a debt or debts, liability or liabilities, of the State of California, in the aggregate amount of not more than eight hundred fifty million dollars ($850,000,000) in the manner provided herein.

998.078. All bonds authorized by this article, when duly sold and delivered as provided herein, constitute valid and legally binding general obligations of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of both principal and interest thereof.

There shall be collected annually in the same manner and at the same time as other state revenue is collected a sum of money, in addition to the ordinary revenues of the state, sufficient to pay the principal and interest on these bonds as provided herein, and all officers required by law to perform any duty in regard to the

collection of state revenues shall collect this additional sum.

On the dates on which funds are remitted pursuant to Section 16676 of the Government Code for the payment of the then maturing principal and interest of the bonds in each fiscal year, there shall be returned into the General Fund all of the money in the Veterans' Farm and Home Building Fund of 1943, not in excess of the principal of and interest on any bonds then due and payable, except as herein provided for the prior redemption of the bonds, and, if the money so returned on the remittance dates is less than the principal and interest then due and payable, the balance remaining unpaid shall be returned into the General Fund out of the Veterans' Farm and Home Building Fund of 1943 as soon as it shall become available, together with interest thereon from the dates of maturity until so returned at the same rate of interest as borne by the bonds, compounded semiannually.

998.079. There is hereby appropriated from the General Fund, for purposes of this article, a sum of money that will equal both of the following:

(a) That sum annually necessary to pay the principal of, and the interest on, the bonds issued and sold as provided herein, as that principal and interest become due and payable.

(b) That sum necessary to carry out Section 998.080, appropriated without regard to fiscal years.

998.080. For purposes of this article, the Director of Finance may, by executive order, authorize the withdrawal from the General Fund of a sum of money not to exceed the amount of the unsold bonds which have been authorized by the committee to be sold pursuant to this article. Any sums withdrawn shall be deposited in the Veterans' Farm and Home Building Fund of 1943. All money made available under this article to the board shall be returned by the board to the General Fund from receipts from the sale of bonds sold under this article, together with interest at the rate of interest fixed in the bonds so sold.

998.081. Upon request of the board, supported by a statement of its plans and projects approved by the Governor, the committee shall determine whether to issue any bonds authorized under this article in order to carry out the board's plans and projects, and, if so, the amount of bonds to be issued and sold. Successive issues of bonds may be authorized and sold to carry out these plans and projects progressively, and it is not necessary that all the bonds be issued or sold at any one time.

998.082. So long as any bonds authorized under this article are outstanding, the Director of Veterans Affairs shall, at the close of each fiscal year, require a survey of the financial condition of the Division of Farm and Home Purchases, together with a projection of the division's operations, to be made by an independent public accountant of recognized standing. The results of each survey and projection shall be reported in writing by the public accountant to the Director of Veterans Affairs, the California Veterans Board, and

the committee.

The Division of Farm and Home Purchases shall reimburse the public accountant for these services out of any money which the division may have available on deposit with the Treasurer.

998.083. The committee may authorize the Treasurer to sell all or any part of the bonds authorized by this article at the time or times fixed by the Treasurer.

Whenever the committee deems it necessary for an effective sale of the bonds, the committee may authorize the Treasurer to sell any issue of bonds at less than their par value, notwithstanding Section 16754 of the Government Code. However, the discount on the bonds shall not exceed 3 percent of the par value thereof.

998.084. Out of the first money realized from the sale of bonds as provided herein, there shall be redeposited in the General Obligation Bond Expense Revolving Fund, established by Section 16724.5 of the Government Code, the amount of all expenditures made for the purposes specified in that section, and this money may be used for the same purpose and repaid in the same manner whenever additional bond sales are made.

SEC. 2. Section 1 of this act shall take effect upon the adoption of the people of the Veterans Bond Act of 1986, as set forth in Section 1 of this act.

SEC. 3. Notwithstanding Section 3525 of the Elections Code or any other provision of law, the Veterans Bond Act of 1986, as set forth in Section 1 of this act, shall be submitted to the people of the State of California for their ratification at the direct primary election to be held June 3, 1986. Section 1 of this act shall be submitted to the voters in substantial accordance with provisions of the Government Code and Elections Code governing submission of statewide measures to the voters at a statewide election.

SEC. 4. All ballots at the election shall have printed thereon, in a square, the words: "Veterans Bond Act of 1986," and in the same square under the words the following in 8-point type: "This act provides for a bond issue of eight hundred fifty million dollars ($850,000,000) to provide farm and home aid for California veterans." Opposite the square, there shall be left spaces in which the voters may place a cross in the manner required by law to indicate whether they vote for or against the act. Where the voting of the election is done by means of voting machines used pursuant to law a manner that carries out the intent of this section, the use of the voting machines, and the expression of the voters' choice by means thereof, are in compliance with this section.

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 place the Veterans Bond Act of 1986, authorized by this act, on the June 3, 1986, Direct Primary Election Ballot for submission to the voters in 1986 and eliminate the possibility of its appearing on

the ballot at any other election, in furtherance of an orderly program of providing farm and home aid to California veterans, it is necessary that this act take effect immediately.

CHAPTER 973

An act to amend Section 11523 of the Government Code, relating to the cost of transcripts.

[Approved by Governor September 25, 1985 Filed with Secretary of State September 26, 1985]

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

SECTION 1. Section 11523 of the Government Code is amended to read:

11523. Judicial review may be had by filing a petition for a writ of mandate in accordance with the provisions of the Code of Civil Procedure, subject, however, to the statutes relating to the particular agency. Except as otherwise provided in this section any such petition shall be filed within 30 days after the last day on which reconsideration can be ordered. The right to petition shall not be affected by the failure to seek reconsideration before the agency. The complete record of the proceedings, or such parts thereof as are designated by the petitioner, shall be prepared by the agency and shall be delivered to petitioner, within 30 days after a request therefor by him, upon the payment of the fee specified in Section 69950 as now or hereinafter amended for the transcript, the cost of preparation of other portions of the record and for certification thereof. Thereafter, the remaining balance of any costs or charges for the preparation of the record shall be assessed against the petitioner whenever the agency prevails on judicial review following trial of the cause. These costs or charges constitute a debt of the petitioner which is collectible by the agency in the same manner as in the case of an obligation under a contract, and no license shall be renewed or reinstated where the petitioner has failed to pay all of these costs or charges. The complete record includes the pleadings, all notices and orders issued by the agency, any proposed decision by a hearing officer, the final decision, a transcript of all proceedings, the exhibits admitted or rejected, the written evidence and any other papers in the case. Where petitioner, within 10 days after the last day on which reconsideration can be ordered, requests the agency to prepare all or any part of the record the time within which a petition may be filed shall be extended until 30 days after its delivery to him. The agency may file with the court the original of any document in the record in lieu of a copy thereof. In the event that the petitioner prevails in overturning the administrative decision following judicial review, the agency shall reimburse the petitioner for all costs of

transcript preparation, compilation of the record, and certification.

CHAPTER 974

An act to amend Section 9501 of the Commercial Code, relating to creditors' remedies.

[Approved by Governor September 25, 1985 Filed with Secretary of State September 26, 1985]

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

SECTION 1. Section 9501 of the Commercial Code is amended to read:

9501. (1) When a debtor is in default under a security agreement, a secured party has the rights and remedies provided in this chapter and except as limited by subdivision (3) those provided in the security agreement. The secured party may reduce his or her claim to judgment, foreclose or otherwise enforce the security interest by any available judicial procedure. If the collateral is documents the secured party may proceed either as to the documents or as to the goods covered thereby. A secured party in possession has the rights, remedies and duties provided in Section 9207. The rights and remedies referred to in this subdivision are cumulative.

(2) After default, the debtor has the rights and remedies provided in this chapter, those provided in the security agreement and those provided in Section 9207.

(3) To the extent that they give rights to the debtor and impose duties on the secured party, the rules stated in the subdivisions referred to below may not be waived or varied except as provided with respect to compulsory disposition of collateral (subdivision (3) of Section 9504 and Section 9505) and with respect to redemption of collateral (Section 9506) but the parties may by agreement determine the standards by which the fulfillment of these rights and duties is to be measured if such standards are not manifestly unreasonable:

(a) Subdivision (2) of Section 9502 and subdivision (2) of Section 9504 insofar as they require accounting for surplus proceeds of collateral;

(b) Subdivision (3) of Section 9504 and subdivision (1) of Section 9505 which deal with disposition of collateral;

(c) Subdivision (2) of Section 9505 which deals with acceptance of collateral as discharge of obligation;

(d) Section 9506 which deals with redemption of collateral; and

(e) Subdivision (1) of Section 9507 which deals with the secured party's liability for failure to comply with this chapter.

(4) If an obligation secured by personal property or fixtures

(Section 9313(1)(a)) is also secured by real property:

(a) The secured party may do any of the following:

(i) Proceed, in any sequence, (1) in accordance with the secured party's rights and remedies in respect of real property as to the real property security, and (2) in accordance with this chapter as to the personal property or fixtures.

(ii) Proceed in any sequence, as to both some or all of the real property and some or all of the personal property or fixtures in accordance with the secured party's rights and remedies in respect of the real property, by including the portion of the personal property or fixtures selected by the secured party in the judicial or nonjudicial foreclosure of the real property in accordance with the procedures applicable to real property. In proceeding under this subparagraph, a power of sale under the deed of trust or mortgage shall be exercisable with respect to both the real property and the personal property or fixtures being sold, and the sale may be conducted by the mortgagee under the mortgage or by the trustee under the deed of trust. The secured party shall not be deemed to have elected irrevocably to proceed as to both real property and personal property or fixtures as provided in this subparagraph with respect to any particular property, unless and until that particular property has been actually disposed of pursuant to a unified sale (judicial or nonjudicial) conducted in accordance with the procedures applicable to real property, and then only as to the property so sold.

(iii) Proceed, in any sequence, as to part of the personal property or fixtures as provided in subparagraph (i), and as to other of the personal property or fixtures as provided in subparagraph (ii).

(b) Except as otherwise provided in paragraph (c), provisions and limitations of any law respecting real property and obligations secured by real property, including, but not limited to, Section 726 of the Code of Civil Procedure, provisions regarding acceleration or reinstatement of obligations secured by real property, prohibitions against deficiency judgments, and limitations on the right to proceed as to collateral, do not in any way apply to either (1) any personal property or fixtures as to which the secured party has proceeded or is proceeding in accordance with the secured party's rights and remedies as permitted under this chapter, or (2) the obligation secured by the personal property or fixtures.

(c) (i) Paragraph (b) does not limit the application of Section 580b of the Code of Civil Procedure.

(ii) If, in proceeding solely with respect to personal property or fixtures, the secured party commences a judicial action against the debtor (subdivision (1) or (5)), that judicial action shall constitute an action within the meaning of Section 726 of the Code of Civil Procedure if and only if a monetary judgment on the debt is sought against the debtor, and that action shall result in the subsequent unenforceability of the encumbrance on any real property not included in that action only if and when a monetary judgment on the

debt is obtained against the debtor.

(iii) Nothing in paragraph (b) shall be construed to excuse compliance with Section 2924c of the Civil Code as a prerequisite to the nonjudicial sale of real property, but that section has no application to the right of a secured party to proceed as to personal property or fixtures.

(d) If the secured party realizes proceeds from the disposition of collateral that is personal property or fixtures, the following provisions shall apply:

(i) The disposition of the collateral, the realization of the proceeds, the application of the proceeds, or any one or more of the foregoing shall not operate to cure any nonmonetary default.

(ii) The disposition of the collateral, the realization of the proceeds, the application of the proceeds, or any one or more of the foregoing shall not operate to cure any monetary default (although the application of the proceeds shall, to the extent of those proceeds, satisfy the secured obligation) so as to affect in any way the secured party's rights and remedies under this chapter with respect to any remaining personal property or fixtures collateral.

(e) An action by the secured party utilizing any available judicial procedure, as provided in subdivision (1), shall in no way be affected by omission of a prayer for a monetary judgment on the debt A judicial action which neither prays for nor results in a monetary judgment on the debt shall not preclude a subsequent action seeking a monetary judgment on the debt.

(f) As used in this subdivision, "monetary judgment on the debt" means a judgment for the recovery from the debtor of all or part of the principal amount of the secured obligation, including, for purposes of this subdivision, contractual interest thereon. "Monetary judgment on the debt" does not include a judgment which provides only for other relief (whether or not that other relief is secured by the collateral), such as one or more forms of nonmonetary relief, and monetary relief ancillary to any of the foregoing, such as attorneys' fees and costs incurred in seeking the relief.

(g) If a secured party fails to comply with any of the requirements of this chapter in proceeding as to both real and personal property under subparagraph (ii) of paragraph (a):

(i) A purchaser for value of any interest in the real property at judicial or nonjudicial foreclosure proceedings conducted pursuant to subparagraph (ii) of paragraph (a) takes that interest free from any claim or interest of another person, or any defect in title, based upon that noncompliance, unless:

(A) The purchaser is the secured party and the failure to comply with this chapter occurred other than in good faith; or

(B) The purchaser is other than the secured party and at the time of sale of the real property at that foreclosure the purchaser had actual knowledge of the failure to comply with this chapter and that the noncompliance occurred other than in good faith.

Even if the purchaser at the foreclosure sale does not take his or

her interest free of claims, interests, or title defects based upon that noncompliance with this chapter, a subsequent purchaser for value who acquires an interest in that real property from the purchaser at that foreclosure takes that interest free from any claim or interest of another person, or any defect in title, based upon that noncompliance, unless at the time of acquiring the interest the subsequent purchaser has actual knowledge of the failure to comply with this chapter and that the noncompliance occurred other than in good faith.

(ii) Rights in personal property or fixtures sold at judicial or nonjudicial foreclosure proceedings pursuant to subparagraph (ii) of paragraph (a) shall be governed by subdivision (4) of Section 9504.

(5) When a secured party has reduced his or her claim to judgment the lien of any levy which may be made upon his or her collateral by virtue of any execution based upon the judgment shall relate back to the date of the perfection of the security interest in the collateral. A judicial sale, pursuant to that execution, is a foreclosure of the security interest by judicial procedure within the meaning of this section, and the secured party may purchase at the sale and thereafter hold the collateral free of any other requirements of this division.

CHAPTER 975

An act to amend Sections 22901 and 22902 of the Education Code, relating to the State Teachers' Retirement System, and making an appropriation therefor.

[Approved by Governor September 25, 1985 Filed with Secretary of State September 26, 1985]

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

SECTION 1. Section 22901 of the Education Code is amended to read:

22901. A member who elects to receive additional service credit as provided in this chapter shall pay, prior to retirement or receipt of a disability allowance, all contributions with respect to such service at the contribution rate for additional service credit in effect at the time of the election.

If the member is currently employed in a position requiring membership in this system, the contributions shall be based upon the compensation earnable in the current school year or either of the two immediately preceding school years, whichever is highest.

If the member is not currently employed in a position requiring membership in this system, the contributions shall be based upon the compensation earnable in the last school year of credited service or either of the two immediately preceding school years, whichever is

highest. Regular interest shall be charged on all contributions from the end of the school year on which the contributions were based to the date of payment.

The employer may pay the amount required as employer contributions for additional service credited under subdivisions (b), (f), (g), and (h) of Section 22902.

Regular interest shall be charged on the monthly unpaid balance if the member pays in installments.

SEC. 2. Section 22902 of the Education Code is amended to read:

22902. A member may elect to receive credit for:

(a) Service performed in a teaching position in a publicly supported and administered university or college in this state.

(b) Service performed in a certificated teaching position in a child care center operated by a county superintendent of schools or a school district in this state.

(c) Service performed in a teaching position in the California School for the Deaf or the California School for the Blind, or in special classes maintained by the public schools of this state for the instruction of the deaf, the hard of hearing, the blind, or the semisighted.

(d) Service performed in a certificated teaching position in a federally supported and administered Indian school in this state.

(e) Time served, not to exceed two years, in a certificated teaching position in a job corps center administered by the United States government in this state if the member was employed in a position requiring membership in this system within one year prior to entering such service and returned to a position requiring membership in this system within six months following the date of termination of service in the job corps.

(f) Time spent on a sabbatical leave after July 1, 1956.

(g) Time spent on an approved leave to participate in any program under the federal Mutual Educational and Cultural Exchange Program.

(h) Time spent on an approved maternity or paternity leave of two years or less in duration, regardless of whether or not the leave was taken before or after the addition of this subdivision.

In no event shall the member receive credit for such service or time if the member has received or is eligible to receive credit for the same service or time in another retirement system.

SEC. 3. (a) Due to the required administrative services necessary for implementation of this act, 2.0 limited-term program technician positions are authorized for the State Teachers' Retirement System for the period from January 1, 1986, until June 30, 1987.

(b) There is hereby appropriated from the Teachers' Retirement Fund to the State Teachers' Retirement System the sum of thirty-six thousand nine hundred eighty dollars ($36,980) for the last six months of fiscal year 1985–86 for salary and benefits, equipment, and work stations required for the two positions specified in subdivision (a).

CHAPTER 976

An act to add Section 18610.5 to the Health and Safety Code, relating to mobilehomes.

[Approved by Governor September 25, 1985 Filed with Secretary of State September 26, 1985]

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

SECTION 1. Section 18610.5 is added to the Health and Safety Code, to read:

18610.5. (a) Mobilehome park lot lines shall not be created, moved, shifted, or altered without the written authorization of the local planning agency and the occupant or occupants, if any, of the mobilehome space or spaces on which the lot line will be created, moved, shifted, or altered.

(b) No mobilehome park lot line shall be created, moved, shifted, or altered, if the action will place an occupant of a mobilehome space or lot in violation of any mobilehome separation or space requirements under this part or under any administrative regulation.

SEC. 2. No reimbursement is required by this act pursuant to 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 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 977

An act relating to public social services, and making an appropriation therefor.

[Approved by Governor September 25, 1985 Filed with Secretary of State September 26, 1985]

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

SECTION 1. The Legislature finds and declares that counties are utilizing general purpose revenue in greater proportions in order to meet the matching requirements of federal- and state-mandated programs. These requirements ignore the high impact of high unemployment and other extenuating factors which cause the growth in county matching funds requirement to far exceed its growth, if any, in general purpose revenues. Counties have been

forced to use discretionary funds to meet matching requirements and, therefore, have had to make undesirable spending reductions in essential services like law enforcement, fire protection, streets and roads maintenance programs, and personnel costs not related to mandated programs.

Further, it is the intent of the Legislature that the two-year appropriation contained in Section 2 of this act takes account of and is consistent with the fiscal and programmatic relationships and responsibilities between the state and counties as they involve funding and program delivery of partnership programs.

SEC. 2. For each of the fiscal years 1985–86 and 1986–87, the sum of eight million six hundred eighty-four thousand six hundred dollars ($8,684,600) is hereby appropriated from the General Fund to the Controller to be distributed on or before February 1, 1986, and February 1, 1987, respectively, in accordance with the following schedule:

Schedule:

(a) County of Butte	644,000
(b) County of Calaveras	75,000
(c) County of Del Norte	75,000
(d) County of Fresno	1,000,000
(e) County of Glenn	75,000
(f) County of Humboldt	448,400
(g) County of Imperial	415,200
(h) County of Kings	334,000
(i) County of Lassen	96,400
(j) County of Mendocino	290,800
(k) County of Merced	631,600
(*l*) County of San Benito	75,000
(m) County of San Joaquin	1,000,000
(n) County of Shasta	512,400
(o) County of Sierra	75,000
(p) County of Siskiyou	168,200
(q) County of Stanislaus	1,000,000
(r) County of Sutter	230,400
(s) County of Tehama	175,000
(t) County of Tuolumne	75,000
(u) County of Trinity	75,000
(v) County of Tulare	1,000,000
(w) County of Yuba	213,200

CHAPTER 978

An act to amend Sections 39050.5, 41604, and 41605 of, to add Sections 39047.5 and 42314.1 to, and to repeal and add Section 42314 of, the Health and Safety Code, relating to air pollution.

[Approved by Governor September 25, 1985 Filed with Secretary of State September 26, 1985]

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

SECTION 1. Section 39047.5 is added to the Health and Safety Code, to read:

39047.5. "Qualifying facility" means a qualifying small power production facility as defined in Section 228.5 of the Public Utilities Code.

SEC. 1.5. Section 39050.5 of the Health and Safety Code is amended to read:

39050.5. "Resource recovery project" means a project which converts municipal wastes, agricultural wastes, forest wastes, landfill gas, or digester gas in a manner so as to produce energy as a byproduct in the air basin in which they are produced.

SEC. 2. Section 41604 of the Health and Safety Code is amended to read:

41604. (a) The districts shall provide for, and shall periodically revise as appropriate, the growth allowances necessary to accommodate the net air quality impact, if any, of cogeneration technology projects and resource recovery projects expected to be permitted by January 1, 1987, and subsequent periods thereafter, pursuant to Section 42314, so that state and federal ambient air quality standards may be achieved and maintained or that reasonable further progress be made toward attainment.

(b) If appropriate, the districts shall submit to the state board, for inclusion in the next state implementation plan revisions, the necessary control measures for the growth allowances for federally approved nonattainment pollutants and precursors required by subdivision (a).

(c) Any district which lacks a federally approved demonstration of attainment with the national ambient air quality standard for ozone or nitrogen dioxide is not required to provide a growth allowance for any pollutant under this section until two years after the district makes both demonstrations. Federal approval shall be determined, based on regulations adopted by the Environmental Protection Agency, after public notice and opportunity for comment. After a district demonstrates attainment, the district may establish a growth allowance by allocating an air quality increment within the ambient air quality standard or through adoption of further control measures.

SEC. 3. Section 41605 of the Health and Safety Code is amended

to read:

41605. (a) The districts, in cooperation with the state board, shall develop, adopt, and update, as necessary, a procedure to determine the magnitude of the emissions from the existing electric generating system in the air basin which would be displaced if cogeneration technology projects and qualifying facilities were constructed. The procedure shall be used once each year to determine the utility displacement credits which shall be used in reviewing the permit applications for new cogeneration technology projects and qualifying facilities during the following year, and shall ensure that the credits are real, permanent, quantifiable, enforceable, and surplus.

(b) A district may reduce the emission offset requirement for a cogeneration technology project or qualifying facility by the utility displacement credits determined pursuant to subdivision (a). In all cases in which a cogeneration technology project or qualifying facility satisfies subdivision (c), a district shall reduce the offset requirement for the project or facility by the utility displacement credits determined pursuant to subdivision (a). A district shall allocate at least 90 percent of the pounds of emissions available in the form of utility displacement credits to projects and facilities which satisfy the requirements of subdivision (c).

(c) Utility displacement credits shall be granted to cogeneration technology projects and qualifying facilities for those pollutants for which net project or facility emissions, after offsets provided pursuant to paragraphs (3) and (4) of subdivision (a) of Section 42314, are lower, on a pounds of pollutant per unit of energy produced basis, than the emissions which would be generated by the fossil-fuel fired existing electric generating system in the air basin in the absence of the project or facility.

(d) Utility displacement credits shall be credited to a project or facility only to the extent necessary to satisfy district offset requirements, and only after credit has been granted for offsets provided pursuant to paragraphs (3) and (4) of subdivision (a) of Section 42314.

(e) The cogeneration technology project or qualifying facility proponent, and the owner or operator of the purchasing utility, shall provide to the state board or the district, as the case may be, the information not publicly available from state or local agencies which is necessary to make the determinations required by this section. The information shall include, but is not limited to, all of the following:

(1) Emission source test data.

(2) Chronological fuel use data.

(3) Chronological electric load data.

(f) In providing the utility displacement credits required by this section, and for purposes of this section only, the utility, if not an applicant, shall not be required to furnish emission offsets on a case-by-case basis for the project. This section does not permit a district on a case-by-case basis to limit the ability of the utility to

operate its existing hydrocarbon combustion facilities in accordance with the requirements of the Public Utilities Commission or the governing body of a public utility owned by a municipality or other political subdivision of the state.

SEC. 4. Section 42314 of the Health and Safety Code is repealed.

SEC. 5. Section 42314 is added to the Health and Safety Code, to read:

42314. (a) Notwithstanding any other provision of any district permit system, and except as provided in this section, no district shall require emissions offsets for any cogeneration technology project or resource recovery project which satisfies all of the following requirements:

(1) The project satisfies one of the following size criteria:

(A) The project produces 50 megawatts or less of electricity. In the case of a combined cycle project, the electrical capacity of the steam turbine may be excluded from the total electrical capacity of the project for purposes of this paragraph if no supplemental firing is used for the steam portion and the combustion turbine has a minimum efficiency of 25 percent.

(B) The project processes municipal wastes and produces more than 50 megawatts, but less than 80 megawatts, of electricity.

(2) The project will use the appropriate degree of pollution control technology (BACT or LAER) as defined and to the extent required by the district permit system.

(3) Existing permits for any item of equipment to be replaced by the project, whether the equipment is owned by the applicant or a thermal beneficiary of the project, are surrendered to the district or modified to prohibit operation simultaneously with the project to the extent necessary to satisfy district offset requirements. The emissions reductions associated with the shutdown of existing equipment shall be credited to the project as emissions offsets in accordance with district rules.

(4) The applicant has provided offsets to the extent they are reasonably available from facilities it owns or operates in the air basin and which mitigate the remaining impacts of the project.

(5) For new projects which burn municipal waste, landfill gas, or digester gas, the applicant has, in the judgment of the district, made a good faith effort to secure all reasonably available emissions offsets to mitigate the remaining impact of the project, and has secured all reasonably available offsets.

(b) This section applies to any project for which an application for an authority to construct is deemed complete by the district after January 1, 1986, only if the project's net emissions, combined with the net emissions from projects previously permitted under this section, are less than the amount provided for in the applicable growth allowance established by the district pursuant to Section 41604. If a district has not yet provided a growth allowance pursuant to Section 41604, the growth allowance is zero. For purposes of this subdivision, "net emissions" means the project's emissions, less any offsets

provided by the applicant and less utility displacement credits granted pursuant to Section 41605.

(c) This section does not relieve a project from satisfying all applicable requirements of Part C (Prevention of Significant Deterioration) of the Clean Air Act, as amended in 1977 (42 U.S.C. Sec. 7401 et seq.), or any rules or regulations adopted pursuant to Part C.

SEC. 6. Section 42314.1 is added to the Health and Safety Code, to read:

42314.1. (a) Except as provided in subdivision (b), to the extent permissible under federal law, and notwithstanding any state or local new source review or prevention of significant deterioration rule or regulation, at the request of an applicant, a district shall issue permits for the construction of a project which burns municipal waste, landfill gas, or digester gas, if all of the following conditions are met:

(1) The project produces less than 50 megawatts of electricity, except as provided in paragraph (4).

(2) The project will utilize the appropriate degree of pollution control technology (BACT or LAER) required by the new source review rule of the district.

(3) The project applicant has, in the judgment of the district, made a good faith effort to secure all available emission offsets to mitigate the impact of the project, but sufficient offsets or other mitigation measures are not available. The applicant, however, is required to secure all the offsets which are available to mitigate the air quality impact of the project, except for projects which constitute a modification to an existing source under the district's new source review rule, in which case the applicant is only required to provide offsets from facilities which the applicant owns or operates within the air basin.

(4) The project produces 50 megawatts or more, but less than 80 megawatts, of electricity, meets the requirements of paragraphs (2) and (3), is located in a district whose state implementation plan revisions have been approved by the Environmental Protection Agency and that has attained, or is reasonably expected to attain, national air quality standards for any criteria pollutant for which sufficient growth allowances are available in the air quality maintenance plan or, in the event the project would cause any criteria pollutant to exceed the available or possible future growth allowance, the applicant secures offsets in an amount equal to the excess in the growth allowance, and processes municipal wastes from one or more municipalities. Any project under this paragraph shall comply with applicable prevention of significant deterioration rules and regulations.

(b) If a proposed project permitted under subdivision (a) has an electrical generating capacity of 50 megawatts or more, the district shall determine whether the project meets the requirements of this section and, in making its determination, shall consider the potential emission of noncriteria pollutants from project facilities and shall

develop appropriate permit conditions. The district shall submit its determination and supporting analyses, including the analysis of noncriteria pollutants and appropriate permit conditions, to the State Energy Resources Conservation and Development Commission for use pursuant to Chapter 6 (commencing with Section 25500) of Division 15 of the Public Resources Code.

SEC. 7. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the programs or level of service mandated by this act.

CHAPTER 979

An act to add Section 1214.1 to the Penal Code, relating to crimes.

[Approved by Governor September 25, 1985 Filed with Secretary of State September 26, 1985]

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

SECTION 1. Section 1214.1 is added to the Penal Code, to read:

1214.1. (a) In addition to any other penalty in criminal cases, the court may impose a civil assessment of up to two hundred fifty dollars ($250) against any defendant who fails, after notice, and without good cause to appear in court for any proceeding authorized by law.

(b) The assessment shall not become effective until at least 10 calendar days after the court mails a warning notice to the defendant by first-class mail to the address shown on the notice to appear or to the defendant's last known address. If the defendant appears within the time specified in the notice and shows good cause for the failure to appear, the court shall vacate the assessment.

(c) If an assessment is imposed under this section, no bench warrant or warrant of arrest shall be issued with respect to the failure to appear at the proceeding for which the assessment is imposed.

(d) The assessment imposed under subdivision (a) shall be subject to the due process requirements governing defense and collection of civil money judgments generally.

CHAPTER 980

An act to amend Sections 7544.5, 7545.2, and 7546.3 of, and to add Sections 7546.13 and 7561.2 to, the Business and Professions Code, relating to security guards.

[Approved by Governor September 25, 1985. Filed with Secretary of State September 26, 1985.]

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

SECTION 1. Section 7544.5 of the Business and Professions Code is amended to read:

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, or physical altercation with a member of the public while on duty, 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. For the purposes of this subdivision, a report shall be required only for physical altercations that result in any of the following: (1) the arrest of a security guard, (2) the filing of a police report by a member of the public, (3) injury on the part of a member of the public that requires medical attention, or (4) the discharge, suspension, or reprimand of a security guard by his or her employer. 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. Any report may be investigated by the director to determine if any disciplinary action is necessary.

(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.

SEC. 1.5. Section 7545.2 of the Business and Professions Code is amended to read:

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.

(c) The bureau may inspect, supervise, or view the administration of the test at any time and without any prior notification. Any impropriety in the administration of the course or the test shall constitute grounds for disciplinary action.

SEC. 2. Section 7546.3 of the Business and Professions Code is amended to read:

7546.3. (a) Except as provided in subdivision (b), 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. A temporary registration card shall

in no event be valid for more than 120 days. However, the director may extend the expiration date beyond the 120 days at any time when there is an abnormal delay in processing applications for prospective security guards.

(b) An employee who has been convicted of a crime prior to applying for a position as a security guard shall not be issued a temporary registration card and shall not be assigned to work as a security guard until the bureau issues a permanent registration card. This subdivision shall apply only if the applicant for registration as a security guard has disclosed the conviction to the bureau on his or her application form, or if the fact of the conviction has come to the attention of the bureau through official court or other governmental documents. In no event shall the director, the department, the bureau, the chief, or the State of California be liable for any civil damages in the event of the issuance of a temporary registration where the applicant has falsified his or her application to conceal a prior criminal conviction.

SEC. 3. Section 7546.13 is added to the Business and Professions Code, to read:

7546.13. The registration of a security guard shall be automatically suspended if the guard is convicted of any crime which is substantially related to the functions, duties, and responsibilities of a security guard. The automatic suspension shall be effectuated by the mailing of a notice of conviction and suspension of license to be sent by the bureau to the registered guard at his or her address of record. A copy of the notice shall be sent to the private patrol operator employing the guard with notice that the employer shall suspend any and all employment of the guard forthwith. The notice shall contain a statement of preliminary determination by the director or his or her designee that the crime stated is reasonably related to the functions, duties, and responsibilities of a security guard. Upon proper request by the guard, a hearing shall be convened within 60 days of the request, before the private disciplinary review committee, as specified in Section 7517.2, for a determination as to whether the automatic suspension shall be made permanent or whether the registration shall be revoked or the guard otherwise disciplined.

In enacting this provision, the Legislature finds and declares that registered guards convicted of the commission of crimes reasonably related to the functions, duties, and responsibilities of a security guard shall be subject to automatic suspension of their license and that summary suspension is justified by compelling state interests of public safety and security within the meaning of the California Supreme Court's decision in Eye Dog Foundation v. State Board of Guide Dogs for the Blind, 67 Cal. 2d 536.

SEC. 4. Section 7561.2 is added to the Business and Professions Code, to read:

7561.2. Any person who knowingly makes a false statement in his or her application for a license or registration as a security guard is

guilty of a misdemeanor.

SEC. 5. No reimbursement is required by this act pursuant to 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 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 14006 of the Welfare and Institutions Code, relating to medical assistance.

[Approved by Governor September 25, 1985 Filed with Secretary of State September 26, 1985]

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

SECTION 1. Section 14006 of the Welfare and Institutions Code, as amended by Chapter 1041 of the Statutes of 1983, 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 or in a licensed community care facility and intends 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 capacityto 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, in which case the state shall have a lien against the property, to the extent permitted by federal law, for the cost of medical services.

(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.

(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, or in a licensed community care facility.

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.

(j) If any provision of this section does not comply with federal requirements, the provision shall become inoperative to the extent that it is not in compliance with federal requirements pursuant to Section 11003.

SEC. 2. Section 14006 of the Welfare and Institutions Code, as amended by Chapter 1447 of the Statutes of 1984, 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 or a licensed community care facility and intends 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, in which case the state shall have a lien against the property, to the extent permitted by federal law, for the cost of medical services.

(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.

(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, or in a licensed community care facility.

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) For purposes of determining eligibility under this part, resources shall be defined, counted, and valued in accordance with the federal law governing resources under Title XIX of the federal Social Security Act (42 U.S.C. Sec. 1396, et seq.). Resources exempt under Title XIX of the federal Social Security Act (42 U.S.C. Sec. 1396, et seq.) shall not be considered in determining eligibility. Medically needy individuals and families may retain nonexempt resources to the extent permitted under Title XIX of the federal Social Security Act (42 U.S.C. Sec. 1396, et seq.). In addition, the principal residence as defined in subdivision (b) shall be exempt.

(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.

(j) If any provision of this section does not comply with federal requirements, the provision shall become inoperative to the extent that it is not in compliance with federal requirements pursuant to Section 11003.

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 14006 of the Welfare and Institutions Code, as amended by Section 1 of Chapter 1041 the Statutes of 1983, as amended during the 1985 portion of the 1985–86 Regular Session, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 3. 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 this act. 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 State Department of Health Services in order to implement 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 982

An act to amend Sections 1134.5 and 1389.4 of the Civil Code, to amend Sections 13113.8 and 18102 of the Health and Safety Code, to amend Sections 240, 591.2, 591.3, 591.4, 591.5, 630, 6147, 6152, 6205, 6402, 6402.5, 6408, and 6408.5 of, to amend the heading of Part 6 (commencing with Section 240) of Division 2 of, to add Sections 591.8 and 6124 to, to add a chapter heading immediately preceding Section 240 of, to add Chapter 2 (commencing with Section 245) to Part 6 of Division 2 of, and to repeal and add Sections 591.1, 591.9, and 1201 of, the Probate Code, to add Section 9852.5 to, and to repeal and add Sections 5910 and 9916 of, the Vehicle Code, relating to property.

[Approved by Governor September 25, 1985 Filed with Secretary of State September 26, 1985.]

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

SECTION 1. Section 1134.5 of the Civil Code is amended to read:

1134.5. (a) Except as provided in this section, the transferor of any real property containing at least one but not more than four residential units, whether the transfer is made by sale, exchange, or real property sales contract as defined in Section 2985, shall deliver to the prospective transferee a written statement by the transferor of whether any structural additions or alterations or the installation, alteration, repair, or replacement of significant components of the structures upon the property, completed during the term of ownership of the transferor or of which the transferor has knowledge, were or were not completed under an appropriate permit or other authority for construction issued in accordance with an ordinance or regulation adopted pursuant to Section 38660 of the Government Code, Section 17921 of the Health and Safety Code, or Section 30600 of the Public Resources Code, or were subsequently validated by the public agency having jurisdiction.

(b) This section does not apply to any of the following:

(1) Transfers which are required to be preceded by the furnishing to a prospective transferee of a copy of a public report pursuant to Section 11018.1 of the Business and Professions Code.

(2) Transfers pursuant to court order, including, but not limited

to, transfers ordered by a probate court in administration of an estate, transfers pursuant to a writ of execution, transfers by a trustee in bankruptcy, transfers by eminent domain, or transfers resulting from a decree for specific performance.

(3) Transfers to a mortgagee by a mortgagor in default, transfers to a beneficiary of a deed of trust by a trustor in default, transfers by any foreclosure sale after default, transfers by any foreclosure sale after default in an obligation secured by a mortgage, or transfers by a sale under a power of sale after a default in an obligation secured by a deed of trust or secured by any other instrument containing a power of sale.

(4) Transfers by a fiduciary in the course of the administration of a decedent's estate, guardianship, conservatorship, or trust.

(5) Transfers from one coowner to one or more coowners.

(6) Transfers made to a spouse, or to a person or persons in the lineal line of consanguinity of one or more of the transferors.

(7) Transfers between spouses resulting from a decree of dissolution of a marriage or a decree of legal separation or from a property settlement agreement incidental to such decrees.

(8) Transfers by the Controller in the course of administering the Unclaimed Property Law (Chapter 7 (commencing with Section 1500) of Title 10 of Part 3 of the Code of Civil Procedure).

(9) Transfers under Chapter 7 (commencing with Section 3691) or Chapter 8 (commencing with Section 3771) of Part 6 of Division 1 of the Revenue and Taxation Code.

(10) Transfers to or from any governmental entity.

(c) (1) The transferor shall deliver the statement as soon as practicable before the transfer of title in the case of a sale or exchange, or prior to execution of the contract where the transfer is by a real property sales contract as defined in Section 2985. For purposes of this section, "delivery" means delivery in person or by mail to the transferee or transferor, himself or herself, or any person authorized to act for him or her in the transaction or to such additional transferees who have requested delivery from the transferor in writing. Delivery to the spouse of a transferee or transferor shall be deemed delivery to a transferee or transferor, unless the contract states otherwise.

(2) If the statement required to be made by this section is delivered after the execution of an offer to purchase, the transferee shall have three days after delivery in person or five days after delivery by deposit in the mail, to terminate his or her offer by delivery of written notice of the termination to the transferor. However, the right of the transferee to terminate his or her offer shall be extinguished upon the close of escrow or recordation of the conveyance document, whichever occurs first.

(d) (1) Neither the transferor nor his or her agent shall be liable for any error, inaccuracy, or omission of any information delivered pursuant to this section, provided that the error, inaccuracy, or omission was not within the personal knowledge of the transferor or

the transferor's agent, was based on information timely provided by public agencies or other persons providing information required to be disclosed pursuant to this section, and ordinary care was exercised in obtaining and transmitting the information.

(2) The delivery of any information required to be disclosed by this section to a prospective transferee by a public agency or other person providing information required to be disclosed pursuant to this section shall be deemed to comply with the requirements of this section and shall relieve the transferor of any further duty under this section with respect to that item of information.

(3) The delivery of a preliminary title report issued by a title insurer or underwritten title company admitted to do business in this state, or the delivery of a report or opinion of a licensed engineer, land surveyor, geologist, structural pest control operator, contractor, or person of like or related capacity when dealing with knowledge or skills conventionally attributed to such person, shall be deemed information by "other persons providing information required to be disclosed" as contemplated in paragraphs (1) and (2), provided such "other persons" furnish or deliver the information pursuant to a request therefor, whether written or oral, by the transferor. In responding to such a request, the "other persons" may indicate, in writing, their understanding that the information they undertake to provide will be used in fulfilling the requirements of this section, and shall indicate those items of information, or parts thereof, which are required to be disclosed to which the information being furnished is applicable. Where such a statement is furnished, the "other person" shall not be responsible for any items of information, or parts thereof, other than those expressly set forth in the statement.

(e) If information disclosed in accordance with this section is subsequently rendered inaccurate as a result of any act, occurrence, or agreement subsequent to the delivery of the required disclosures, the inaccuracy resulting therefrom shall not constitute a violation of this section. If at the time disclosure is to be made, an item of information required to be disclosed is unknown or not available to the transferor, and the transferor or the transferor's agent has made a reasonable effort to ascertain it, the transferor may use an approximation of the information, provided the approximation is clearly identified as such, is reasonable, is based on the best information available to the transferor or the transferor's agent, and is not used for the purpose of circumventing or evading the provisions of this section.

(f) The specification of items for disclosure in this section does not limit or abridge any obligation for disclosure created by any other provision of law or which may exist in order to avoid fraud, misrepresentation, or deceit in the transfer transaction.

(g) No transfer of title subject to the provisions of this section shall 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 a transferee including attorney's fees. The remedy provided by this section is not exclusive and shall not preclude the transferee from pursuing any other remedy which he or she may have under any other provision of law.

(h) No person or entity conducting an escrow on behalf of the parties to a transfer of real property shall incur liability for the consequences of any act or omission of any act pursuant to this section, and no action may be brought or maintained against any such person or entity as a result of such act or omission.

SEC. 2. Section 1389.4 of the Civil Code is amended to read:

1389.4. (a) Except as provided in subdivision (b), if an appointment by will or by instrument effective only at the death of the donee is ineffective because of the death of an appointee before the appointment becomes effective and the appointee leaves issue surviving the donee, the surviving issue of such appointee shall take the appointed property in the same manner as the appointee would have taken had the appointee survived the donee except that the property shall pass only to persons who are permissible appointees, including those permitted under Section 1389.5. If the surviving issue are all of the same degree of kinship to the deceased appointee they take equally, but if of unequal degree then those of more remote degree take in the manner provided in Section 240 of the Probate Code.

(b) This section does not apply if either the donor or donee manifests an intent that some other disposition of the appointive property shall be made.

SEC. 2.5. Section 13113.8 of the Health and Safety Code is amended to read:

13113.8. (a) On and after January 1, 1986, every single-family dwelling and factory-built housing, as defined in Section 19971, which is sold shall have an operable smoke detector. The detector shall be approved and listed by the State Fire Marshal and installed in accordance with the State Fire Marshal's regulations. Unless prohibited by local rules, regulations, or ordinances, a battery-operated smoke detector shall be deemed to satisfy the requirements of this section.

(b) On and after January 1, 1986, the transferor of any real property containing a single-family dwelling, as described in subdivision (a), whether the transfer is made by sale, exchange, or real property sales contract, as defined in Section 2985 of the Civil Code, shall deliver to the transferee a written statement indicating that the transferor is in compliance with this section. The disclosure statement shall be either included in the receipt for deposit in a real estate transaction, an addendum attached thereto, or a separate document.

(c) The transferor shall deliver the statement referred to in subdivision (b) as soon as practicable before the transfer of title in the case of a sale or exchange, or prior to execution of the contract where the transfer is by a real property sales contract, as defined in

Section 2985. For purposes of this subdivision, "delivery" means delivery in person or by mail to the transferee or transferor, or to any person authorized to act for him or her in the transaction, or to additional transferees who have requested delivery from the transferor in writing. Delivery to the spouse of a transferee or transferor shall be deemed delivery to a transferee or transferor, unless the contract states otherwise.

(d) This section does not apply to any of the following:

(1) Transfers which are required to be preceded by the furnishing to a prospective transferee of a copy of a public report pursuant to Section 11018.1 of the Business and Professions Code.

(2) Transfers pursuant to court order, including, but not limited to, transfers ordered by a probate court in the administration of an estate, transfers pursuant to a writ of execution, transfers by a trustee in bankruptcy, transfers by eminent domain, or transfers resulting from a decree for specific performance.

(3) Transfers to a mortgagee by a mortgagor in default, transfers to a beneficiary of a deed of trust by a trustor in default, transfers by any foreclosure sale after default, transfers by any foreclosure sale after default in an obligation secured by a mortgage, or transfers by a sale under a power of sale after a default in an obligation secured by a deed of trust or secured by any other instrument containing a power of sale.

(4) Transfers by a fiduciary in the course of the administration of a decedent's estate, guardianship, conservatorship, or trust.

(5) Transfers from one coowner to one or more coowners.

(6) Transfers made to a spouse, or to a person or persons in the lineal line of consanguinity of one or more of the transferors.

(7) Transfers between spouses resulting from a decree of dissolution of a marriage, from a decree of legal separation, or from a property settlement agreement incidental to either of those decrees.

(8) Transfers by the Controller in the course of administering the Unclaimed Property Law provided for in Chapter 7 (commencing with Section 1500) of Title 10 of Part 3 of the Code of Civil Procedure.

(9) Transfers under the provisions of Chapter 7 (commencing with Section 3691) or Chapter 8 (commencing with Section 3771) of Part 6 of Division 1 of the Revenue and Taxation Code.

(e) No liability shall arise, nor any action be brought or maintained against, any agent of any party to a transfer of title, including any person or entity acting in the capacity of an escrow, for any error, inaccuracy, or omission relating to the disclosure required to be made by a transferor pursuant to this section. However, this subdivision does not apply to a licensee, as defined in Section 10011 of the Business and Professions Code, where the licensee participates in the making of the disclosure required to be made pursuant to this section with actual knowledge of the falsity of the disclosure.

(f) Except as otherwise provided in this section, this section shall

not be deemed to create or imply a duty upon a licensee, as defined in Section 10011 of the Business and Professions Code, or upon any agent of any party to a transfer of title, including any person or entity acting in the capacity of an escrow, to monitor or ensure compliance with this section.

(g) No transfer of title shall be invalidated on the basis of a failure to comply with this section, and the exclusive remedy for the failure to comply with this section is an award of actual damages not to exceed one hundred dollars ($100), exclusive of any court costs and attorney's fees.

(h) Local ordinances requiring smoke detectors in single-family dwellings may be enacted or amended. However, the ordinances shall satisfy the minimum requirements of this section.

(i) For the purposes of this section, "single-family dwelling" does not include a manufactured home as defined in Section 18007, a mobilehome as defined in Section 18008, or a commercial coach as defined in Section 18001.8.

(j) This section shall not apply to the installation of smoke detectors in dwellings intended for human occupancy, as defined in and regulated by Section 13113.7 of the Health and Safety Code, as added by Senate Bill No. 1448 in the 1983–84 Regular Session.

SEC. 3. Section 18102 of the Health and Safety Code is amended to read:

18102. (a) If 40 days have elapsed since the death of a registered or legal owner of a manufactured home, mobilehome, commercial coach, or truck camper registered under this part, without the decedent leaving other property necessitating probate, and irrespective of the value of the manufactured home, mobilehome, commercial coach, or truck camper the following person may secure a transfer of registration of the title or interest of the decedent:

(1) The surviving husband or wife or other heir in the order named in Section 630 of the Probate Code, unless the manufactured home, mobilehome, commercial coach, or truck camper is, by will, otherwise bequeathed.

(2) The beneficiary who takes the manufactured home, mobilehome, commercial coach, or truck camper under the will of the decedent, where the manufactured home, mobilehome, commercial coach, or truck camper is, by will, so bequeathed.

(b) The person authorized by subdivision (a) may secure a transfer of registration of the title or interest of the decedent upon presenting to the department all of the following:

(1) The appropriate certificate of title and registration card, if available.

(2) A certificate of the heir or beneficiary under penalty of perjury containing the following statements:

(A) The date and place of the decedent's death.

(B) The decedent left no other property necessitating probate and no probate proceeding is now being or has been conducted in this state for the decedent's estate.

(C) The declarant is entitled to the manufactured home, mobilehome, commercial coach, or truck camper either (i) as the surviving heir or heirs named in Section 630 of the Probate Code if the decedent left no will or (ii) as the beneficiary or beneficiaries under the decedent's last will if the decedent left a will, and no one has a right to the decedent's manufactured home, mobilehome, commercial coach, or truck camper that is superior to that of the declarant.

(D) There are no unsecured creditors of the decedent or, if there are, the unsecured creditors of the decedent have been paid in full or their claims have been otherwise discharged.

(3) If required by the department, a certificate of the death of the decedent.

(4) If required by the department, the names and addresses of any other heirs or beneficiaries.

SEC. 4. The heading of Part 6 (commencing with Section 240) of Division 2 of the Probate Code is amended to read:

PART 6. DISTRIBUTION AMONG HEIRS OR BENEFICIARIES

SEC. 5. A heading is added immediately preceding Section 240 of the Probate Code, to read:

CHAPTER 1. INTESTATE DISTRIBUTION SYSTEM

SEC. 6. Section 240 of the Probate Code is amended to read:

240. If a statute calls for property to be distributed or taken in the manner provided in this section, the property shall be divided into as many equal shares as there are living members of the nearest generation of issue then living and deceased members of that generation who leave issue then living, each living member of the nearest generation of issue then living receiving one share and the share of each deceased member of that generation who leaves issue then living being divided in the same manner among his or her then living issue.

SEC. 7. Chapter 2 (commencing with Section 245) is added to Part 6 of Division 2 of the Probate Code, to read:

CHAPTER 2. DISTRIBUTION UNDER A WILL OR TRUST

245. (a) When a will or trust calls for property to be distributed or taken "in the manner provided in Section 240 of the Probate Code," or when a will or trust that expresses no contrary intention provides for issue or descendants to take without specifying the manner, the property to be distributed shall be distributed in the manner provided in Section 240.

(b) Use of the following words, without more, as applied to issue or descendants is not an expression of contrary intention:

(1) "Per capita" when living members of the designated class are not all of the same generation.

(2) Contradictory wording, such as "per capita and per stirpes" or "equally and by right of representation."

246. (a) When a will or trust calls for property to be distributed or taken "in the manner provided in Section 246 of the Probate Code," the property to be distributed shall be divided into as many equal shares as there are living children of the designated ancestor, if any, and deceased children who leave issue then living. Each living child of the designated ancestor is allocated one share, and the share of each deceased child who leaves issue then living is divided in the same manner.

(b) Unless the will or trust expressly provides otherwise, if a will or trust executed on or after January 1, 1986, calls for property to be distributed or taken "per stirpes," "by representation," or "by right of representation," the property shall be distributed in the manner provided in subdivision (a).

(c) If a will or trust executed before January 1, 1986, calls for property to be distributed or taken "per stirpes," "by representation," or by "right of representation," the property shall be distributed in the manner provided in subdivision (a), absent a contrary intent of the testator or trustor.

247. (a) When a will or trust calls for property to be distributed or taken "in the manner provided in Section 247 of the Probate Code," the property to be distributed shall be divided into as many equal shares as there are living members of the nearest generation of issue then living and deceased members of that generation who leave issue then living. Each living member of the nearest generation of issue then living is allocated one share, and the remaining shares, if any, are combined and then divided and allocated in the same manner among the remaining issue as if the issue already allocated a share and their descendants were then deceased.

(b) Unless the will or trust expressly provides otherwise, if a will or trust executed on or after January 1, 1986, calls for property to be distributed or taken "per capita at each generation," the property shall be distributed in the manner provided in subdivision (a).

(c) If a will or trust executed before January 1, 1986, calls for property to be distributed or taken "per capita at each generation," the property shall be distributed in the manner provided in subdivision (a), absent a contrary intent of the testator or trustor.

SEC. 8. Section 591.1 of the Probate Code is repealed.

SEC. 9. Section 591.1 is added to the Probate Code, to read:

591.1. (a) To obtain authority to administer the estate under this article, the executor or administrator shall petition the court for that authority either in the petition for his or her appointment or in a separate petition. The executor or administrator may not be authorized to administer the estate under this article if the decedent's will provides that the estate shall not be administered under this article. The provisions of this article do not apply to a

special administrator.

(b) A petition under this section may request either of the following:

(1) Authority to administer the estate under this article.

(2) Authority to administer the estate under this article without authority to do either of the following under the authority of this article:

(A) Sell or exchange real property.

(B) Grant an option to purchase real property.

(c) If the authority is requested in a petition for appointment, notice of the hearing of the petition shall be given for the period and in the manner applicable to the petition for appointment.

(d) If the authority is requested in a separate petition, the clerk shall set the petition for hearing by the court and give notice thereof for the period and in the manner required by Section 1200. At least 10 days before the date set for hearing of the petition by the court, the petitioner shall cause notice of the hearing to be mailed to all legatees and devisees and to all known heirs of the decedent and to all persons who have requested notice as provided in Section 1202.

(e) The notice of the hearing of the petition for authority to administer the estate under this article, whether included in the petition for appointment, or in a separate petition, shall specify that authority to administer the estate under the Independent Administration of Estates Act is being requested.

(f) Any person interested in the estate may appear and object to the granting of authority to administer the estate under this article by filing a written statement setting forth the person's objections.

(g) Unless the court determines that the objecting party has shown good cause why the authority requested in the petition should not be granted, the court shall grant the requested authority, and the letters testamentary or of administration shall be endorsed to the effect that the letters are issued pursuant to this article and, if the authority granted does not include the authority to sell or exchange real property or grant options to purchase real property under this article, that limitation shall be included in the endorsement.

SEC. 10. Section 591.2 of the Probate Code is amended to read:

591.2. (a) Upon obtaining authority to administer the estate under this article, the executor or administrator shall proceed to administer the estate in the same manner as provided in this code with respect to executors or administrators who have not been granted such authority. However, the executor or administrator is not required to obtain judicial authorization, approval, confirmation, or instructions, which shall be known and referred to in this article as "court supervision," with respect to any actions during the course of the administration of the estate, except that the executor or administrator is required to obtain court supervision, in the manner provided in this code, for any of the following actions:

(1) Allowance of executor's and administrator's commissions and attorney's fees.

(2) Settlement of accountings.

(3) Preliminary and final distributions and discharge.

(4) Sale or exchange of real property and grant of options to purchase real property if the authority of the executor or administrator granted under this article specifically excludes the authority to take those actions under the authority of this article.

(b) Notwithstanding subdivision (a), the executor or administrator may obtain court supervision as provided in this code of any action taken by him or her during the administration of the estate. All publications of notice required by this code shall continue to be given except when no hearing is required because the executor or administrator does not seek court supervision of an action or proposed action.

SEC. 10.5. Section 591.3 of the Probate Code is amended to read:

591.3. (a) Except as provided in subdivisions (c) and (d):

(1) Prior to the consummation of any of the actions described in subdivision (b) without court supervision, the executor or administrator to whom authority has been granted to act without court supervision shall advise the persons affected by the proposed action of his or her intention to take such action.

(2) The advice, known and referred to in this article as "advice of proposed action," shall be given to the devisees and legatees whose interest in the estate is affected by the proposed action; to the heirs of the decedent in intestate estates; to the State of California if any portion of the estate is to escheat to it; and to persons who have filed a request for special notice pursuant to Section 1202.

(b) The actions requiring such advice are all of the following:

(1) Selling or exchanging real property.

(2) Granting options to purchase real property.

(3) Selling or exchanging personal property, except for securities sold upon an established stock or bond exchange and other assets referred to in Sections 770 and 771.5 when sold for cash.

(4) Leasing real property for a term in excess of one year.

(5) Entering into any contract, other than a lease of real property, not to be performed within two years.

(6) Continuing for a period of more than six months from the date of appointment of the executor or administrator of an unincorporated business or venture in which the decedent was engaged or which was wholly or partly owned by the decedent at the time of his or her death, or the sale or incorporation of such business.

(7) The first payment, the first payment for a period commencing 12 months after the death of the decedent, and any increase in the payments, of a family allowance.

(8) Investing funds of the estate, except depositing funds in banks and investing in insured savings and loan association accounts, in units of a common trust fund described in Section 585.1, in direct obligations of the United States maturing not later than one year from the date of investment or reinvestment, and in mutual funds which are comprised of (A) those obligations, or (B) repurchase

agreements with respect to any obligation, regardless of maturity, in which the fund is authorized to invest.

(9) Completing a contract entered into by the decedent to convey real or personal property.

(10) Borrowing money or executing a mortgage or deed of trust or giving other security.

(11) Determining third-party claims to real and personal property if the decedent died in possession of, or holding title to, such property, or determining decedent's claim to real or personal property title to or possession of which is held by another.

(c) The advice of proposed action need not be given to any person who consents in writing to the proposed action. The consent may be executed at any time before or after the proposed action is taken.

(d) The advice of proposed action need not be given to any person who, in writing, waives his or her right to the advice of proposed action with respect to the particular proposed action. The waiver may be executed at any time before or after the proposed action is taken. The waiver shall describe the particular proposed action and may waive particular aspects of the advice, such as the service, mailing, or time requirements of Section 591.4, or the giving of the advice in its entirety for the particular proposed action.

SEC. 11. Section 591.4 of the Probate Code is amended to read:

591.4. (a) The advice of proposed action shall be delivered personally or sent by first-class mail, or sent by airmail to any person residing outside the jurisdiction of the United States, to each person described in Section 591.3 at his or her last known address. A copy of the form prepared by the Judicial Council for objecting to a proposed action shall accompany the advice of proposed action. The advice of proposed action shall be in substantially the form set out in Section 591.8 and shall state the name and mailing address of the executor or administrator, the person and telephone number to call to get additional information, and the action proposed to be taken, with a reasonably specific description of such action, and the date on or after which the proposed action is to be taken. Such date shall not be less than 15 days after the personal delivery, or not less than 20 days after the mailing, of the advice. When the proposed action involves the sale or exchange of real property, or the granting of an option to purchase real property, the advice of proposed action shall state the material terms of the transaction, including, if applicable, the sale price and the amount of, or method of calculating, any commission or compensation paid or to be paid to an agent or broker in connection with the transaction.

(b) The failure of the executor or administrator to comply with the provisions of this section shall not affect the validity of the action so taken or the title to any property conveyed or transferred to bona fide purchasers and to third persons dealing in good faith with the executor or administrator who changed their position in reliance on the action, conveyance, or transfer without actual notice of the failure of the executor or administrator to comply with such

provisions. No person dealing with the executor or administrator shall have any duty to inquire or investigate whether or not the executor or administrator has complied with the provisions of this section.

SEC. 12. Section 591.5 of the Probate Code is amended to read:

591.5. (a) Any person described in Section 591.3 who objects to the taking of any proposed action described in Section 591.3 without court supervision, may do either or both of the following:

(1) The person may apply to the court having jurisdiction over the proceeding for an order restraining the executor or administrator from taking the proposed action without court supervision under the provisions of this code dealing with the court supervision of such action, which order the court shall grant without requiring notice to the executor or administrator and without cause being shown therefor. Such order may be served by the person so objecting upon the executor or administrator in the same manner provided for in Section 415.10 or 415.30 of the Code of Civil Procedure or in the manner authorized by the court.

(2) The person may deliver or mail a written objection to the executor or administrator at the address stated in the advice of proposed action, so that the objection is received before the date specified on or after which the proposed action is to be taken, or before the proposed action is actually taken, whichever is later.

(b) If the executor or administrator has notice of the issuance of the restraining order or of the written objection of a person described in Section 591.3, the executor or administrator shall, if he or she desires to consummate such action, submit it to the court for approval following the provisions of this code dealing with the court supervision of such action and may consummate such action under such order as may be entered by the court. Failure to comply with this subdivision is a violation of the fiduciary duty of the executor or administrator and is grounds for his or her removal.

(c) The failure of the executor or administrator to comply with subdivision (b) and the consummation of the action by the executor or administrator without complying with subdivision (b) shall not affect the validity of the action so taken or the title to any property conveyed or transferred to bona fide purchasers and to third persons dealing in good faith with the executor or administrator who changed their position in reliance on the action, conveyance, or transfer without actual notice of the failure of the executor or administrator to comply with subdivision (b). No person dealing with the executor or administrator shall have any duty to inquire or investigate whether or not the executor or administrator has complied with subdivision (b).

(d) All persons described in Section 591.3 who have been given an advice of proposed action as provided in Section 591.4 may object only in the manner provided in this section. The failure to object is a waiver of any right to have the court later review the action taken unless the person who fails to object establishes that he or she did not

actually receive advice of the proposed action before the time to object expired. The court may, however, review actions of the executor or administrator on its own motion or on motion of an interested person who did not receive the advice of proposed action before the time to object expired and who did not consent to the proposed action or waive his or her right to receive the advice of proposed action pursuant to subdivision (c) or (d) of Section 591.3.

(e) Any person who objects as provided in this section, to the proposed action shall receive notice of any hearing on a petition for court authorization or confirmation of the proposed action.

SEC. 13. Section 591.8 is added to the Probate Code, to read:

591.8. (a) For purposes of Sections 591.3 and 591.4, the advice of proposed action shall be in substantially the following form or in another form as may be prescribed by the Judicial Council:

SUPERIOR COURT OF CALIFORNIA
COUNTY OF _____

Estate of _____ No. _____

_____
(Deceased)

ADVICE OF PROPOSED ACTION
(Probate Code Sections 591.3, 591.4)

1. The executor or administrator of the estate of the deceased is:

_____
(Name(s))

2. The executor or administrator has authority to administer the estate without court supervision under the Independent Administration of Estates Act (California Probate Code Sections 591–591.9).

3. On or after _____, 19____, the executor or administrator will take the following action:

[Describe proposed action in reasonably specific terms. If the proposed action involves a sale or exchange of real property or an option to purchase real property, (1) state the material terms of the transaction, including any sale price and the amount of or method of calculating any compensation paid or to be paid to an agent or broker in connection with the transaction, (2) state the amount of any probate inventory valuation of the property on file with the court, and (3) set forth the following statement: "A sale of real property without court supervision means that the sale will not be presented to the court for confirmation at a hearing at which higher bids for the property may be presented and the property sold to the highest bidder."]

4. If you need more information, you may call:

_____
(Name)

_____
(Telephone number)

5. If you object to the proposed action, you may deliver or mail a written objection to any executor or administrator at the following address: _____

_____.

Your objection can be simply stated. All you need to do is state that you object to the proposed action (specifying the action you object to) and sign your name(s). Alternatively, you may also apply to the court for an order preventing the executor or administrator from taking the proposed action without court supervision.

6. Your written objection or the court order must be received before the date specified above, or before the proposed action is taken, whichever is later. If you object, the executor or administrator may take the proposed action only under court supervision.

7. IF YOU DO NOT OBJECT IN WRITING OR OBTAIN A COURT ORDER PREVENTING THE PROPOSED ACTION, YOU WILL BE TREATED AS IF YOU CONSENTED TO THE PROPOSED ACTION AND YOU MAY NOT OBJECT AFTER THE PROPOSED ACTION IS TAKEN

Dated: _____ _____

(Signature of executor or administrator or attorney for executor or administrator)

(b) The Judicial Council shall prepare a form that a person may use to object to a proposed action pursuant to paragraph (2) of subdivision (a) of Section 591.5. A person who wishes to object to a proposed action either may use the Judicial Council form or may make the objection in any other writing that satisfies the requirements of this article.

SEC. 13.5. Section 591.9 of the Probate Code, as added by Chapter 359 of the Statutes of 1985, is repealed.

SEC. 14. Section 591.9 is added to the Probate Code, to read:

591.9. (a) Subject to Sections 591.3 to 591.5, inclusive, and the applicable fiduciary duties, an executor or administrator who has been granted authority to administer the estate without court supervision under this article may sell property of the estate either at public auction or private sale, and with or without notice, for such price and upon such terms and conditions as the executor or administrator may determine. The requirements applicable to court confirmation of sales of real property, including publication of notice of sale, court approval of agents' and brokers' commissions, and sale at not less than 90 percent of appraised value, do not apply to sales under independent administration. This subdivision applies to any sale made under authority of this article on or after January 1, 1985.

(b) If the executor or administrator is otherwise required to file

a bond and is authorized to sell real property of the estate without court supervision under this article, the court, in its discretion, may fix the amount of the bond at not less than the estimated value of the personal property, the estimated net proceeds of the real property authorized to be sold under this article, and the estimated value of the probable annual gross income of all of the property belonging to the estate, or, if the bond is to be given by personal sureties, at not less than twice that amount.

SEC. 15. Section 630 of the Probate Code is amended to read:

630. (a) Subject to Section 632, subdivision (b) applies only where the gross value of the decedent's real property in this state, if any, does not exceed ten thousand dollars ($10,000) and the gross value of the decedent's real and personal property in this state (excluding any vehicle registered under Division 3 (commencing with Section 4000) of the Vehicle Code or titled under Division 16.5 (commencing with Section 38000) of the Vehicle Code, any vessel numbered under Division 3.5 (commencing with Section 9840) of the Vehicle Code, or any manufactured home, mobilehome, commercial coach, or truck camper registered under Part 2 (commencing with Section 18000) of Division 13 of the Health and Safety Code, of which the decedent is the owner or legal owner) over and above any amounts due to the decedent for services in the armed forces of the United States, and over and above the amount of salary not exceeding five thousand dollars ($5,000), including compensation for unused vacation, owing to decedent for services from any employment, does not exceed sixty thousand dollars ($60,000).

(b) The surviving spouse, the children, the issue of deceased children, parents, brothers or sisters of the decedent, the issue of a deceased brother or sister, the grandparents, or the guardian or conservator of the estate of any person bearing such relationship to the decedent, or the trustee named under a trust agreement executed by the decedent during his or her lifetime, the primary beneficiaries of which bear such relationship to the decedent, if such person or persons has or have a right to succeed to the property of the decedent, or the sole beneficiary, or all of the beneficiaries under the last will of the decedent, regardless of whether or not any beneficiary is related to the decedent, may, without procuring letters of administration, or awaiting the probate of the will, collect any money due the decedent (including money of the decedent on deposit in a financial institution as defined in Section 40), receive the tangible personal property of the decedent, and have any evidences of a debt, obligation, interest, right, stock, or chose in action transferred to such person or persons upon furnishing the person, representative, corporation, officer or body owing the money, having custody of such property or acting as registrar or transfer agent of such evidences of debt, obligation, interest, right, stock, or chose in action, with an affidavit or declaration under penalty of perjury showing the right of the person or persons to receive such

money or property, or to have such evidences transferred. Nothing in this subdivision applies to real property or an interest in real property.

(c) If the decedent's will nominates a custodian to receive a bequest to a beneficiary under the Uniform Gifts to Minors Act or the Uniform Transfers to Minors Act of any state and the nomination has not been revoked and the other conditions of subdivisions (a) and (b) are satisfied, the custodian may collect the bequest as provided in subdivision (b) if the beneficiary has not attained the age at which the custodianship is to terminate.

(d) A transfer agent of any security shall change the registered ownership on the books of a corporation from the decedent to the successor or successors upon the presentation of an affidavit as provided in subdivision (b) and is discharged from liability in so doing as provided in Section 631.

(e) A public administrator who has taken charge of the estate of a decedent as provided in Section 1140 may refuse to pay money or deliver property of the estate pursuant to this article if payment of the costs and fees described in Section 1144.5, subject to the dollar limitations specified in that section, has not first been made or adequately assured to the satisfaction of the public administrator.

SEC. 15.2. Section 1201 of the Probate Code, as added by Chapter 359 of the Statutes of 1985, is repealed.

SEC. 15.3. Section 1201 is added to the Probate Code, to read:

1201. (a) Where a provision of this division requires that notice be given to heirs, or to devisees and legatees, or both, of a decedent or testator, notice need not be given to (1) a person who may be an heir of the decedent or testator because of a possible parent-child relationship between a stepchild and a stepparent or between a foster child and a foster parent or (2) a person who may be a member of a class to whom a devise or bequest is made because of a possible parent-child relationship between a stepchild and a stepparent or between a foster child and a foster parent, unless the person required to give the notice has actual knowledge of facts which a person would reasonably believe give rise under Section 6408 to the parent-child relationship between the stepchild and the stepparent or the foster child and the foster parent.

(b) Nothing in this section limits the provisions of Section 1202, 1202.5, or 1204.

SEC. 15.5. Section 6124 is added to the Probate Code, to read:

6124. If the testator's will was last in the testator's possession, the testator was competent until death, and neither the will nor a duplicate original of the will can be found after the testator's death, it is presumed that the testator destroyed the will with intent to revoke it. This presumption is a presumption affecting the burden of producing evidence.

SEC. 16. Section 6147 of the Probate Code is amended to read:

6147. (a) As used in this section, "devisee" means a devisee who

is kindred of the testator or kindred of a surviving, deceased, or former spouse of the testator.

(b) Subject to subdivision (c), if a devisee is dead when the will is executed, or is treated as if he or she predeceased the testator, or fails to survive the testator or until a future time required by the will, the issue of the deceased devisee take in his or her place in the manner provided in Section 240. A devisee under a class gift is a devisee for the purpose of this subdivision unless his or her death occurred before the execution of the will and that fact was known to the testator when the will was executed.

(c) The issue of a deceased devisee do not take in his or her place if the will expresses a contrary intention or a substitute disposition. A requirement that the initial devisee survive for a specified period of time after the death of the testator constitutes such a contrary intention. A requirement that the initial devisee survive until a future time that is related to the probate of the will or administration of the estate of the testator constitutes such a contrary intention.

SEC. 17. Section 6152 of the Probate Code is amended to read:

6152. Unless otherwise provided in the will:

(a) Except as provided in subdivision (b), halfbloods, adopted persons, persons born out of wedlock, stepchildren, foster children, and the issue of all such persons when appropriate to the class, are included in terms of class gift or relationship in accordance with the rules for determining relationship and inheritance rights for purposes of intestate succession.

(b) In construing a devise by a testator who is not the natural parent, a person born to the natural parent shall not be considered the child of that parent unless the person lived while a minor as a regular member of the household of the natural parent or of that parent's parent, brother, sister, spouse, or surviving spouse. In construing a devise by a testator who is not the adoptive parent, a person adopted by the adoptive parent shall not be considered the child of that parent unless the person lived while a minor (either before or after the adoption) as a regular member of the household of the adopting parent or of that parent's parent, brother, sister, or surviving spouse.

(c) Subdivisions (a) and (b) also apply in determining:

(1) Persons who would be kindred of the testator or kindred of a surviving, deceased, or former spouse of the testator under Section 6147.

(2) Persons to be included as issue of a deceased devisee under Section 6147.

(3) Persons who would be the testator's or other designated person's heirs under Section 6151.

SEC. 18. Section 6205 of the Probate Code is amended to read:

6205. "Descendants" means children, grandchildren, and their lineal descendants of all generations, with the relationship of parent and child at each generation being determined as provided in Section 6152. A reference to "descendants" in the plural includes a

single descendant where the context so requires.

SEC. 19. Section 6402 of the Probate Code is amended to read:

6402. Except as provided in Section 6402.5, the part of the intestate estate not passing to the surviving spouse under Section 6401, or the entire intestate estate if there is no surviving spouse, passes as follows:

(a) To the issue of the decedent; if they are all of the same degree of kinship to the decedent they take equally, but if of unequal degree, then those of more remote degree take in the manner provided in Section 240.

(b) If there is no surviving issue, to the decedent's parent or parents equally.

(c) If there is no surviving issue or parent, to the issue of the parents or either of them, the issue taking equally if they are all of the same degree of kinship to the decedent, but if of unequal degree those of more remote degree take in the manner provided in Section 240.

(d) If there is no surviving issue, parent or issue of a parent, but the decedent is survived by one or more grandparents or issue of grandparents, to the grandparent or grandparents equally, or to the issue of such grandparents if there is no surviving grandparent, the issue taking equally if they are all of the same degree of kinship to the decedent, but if of unequal degree those of more remote degree take in the manner provided in Section 240.

(e) If there is no surviving issue, parent or issue of a parent, grandparent or issue of a grandparent, but the decedent is survived by the issue of a predeceased spouse, to such issue, the issue taking equally if they are all of the same degree of kinship to the predeceased spouse, but if of unequal degree those of more remote degree take in the manner provided in Section 240.

(f) If there is no surviving issue, parent or issue of a parent, grandparent or issue of a grandparent, or issue of a predeceased spouse, but the decedent is survived by next of kin, to the next of kin in equal degree, but when there are two or more collateral kindred in equal degree, but claiming through different ancestors, those who claim through the nearest ancestor shall be preferred to those claiming through an ancestor more remote.

(g) If there is no surviving next of kin of the decedent and no surviving issue of a predeceased spouse of the decedent, but the decedent is survived by the parents of a predeceased spouse or the issue of such parents, to the parent or parents equally, or to the issue of such parents if both are deceased, the issue taking equally if they are all of the same degree of kinship to the predeceased spouse, but if of unequal degree those of more remote degree take in the manner provided in Section 240.

SEC. 20. Section 6402.5 of the Probate Code is amended to read:

6402.5. (a) If the decedent had a predeceased spouse who died not more than 15 years before the decedent and there is no surviving spouse or issue of the decedent, the portion of the decedent's estate

attributable to the decedent's predeceased spouse passes as follows:

(1) If the decedent is survived by issue of the predeceased spouse, to the surviving issue of the predeceased spouse; if they are all of the same degree of kinship to the predeceased spouse they take equally, but if of unequal degree those of more remote degree take in the manner provided in Section 240.

(2) If there is no surviving issue of the predeceased spouse but the decedent is survived by a parent or parents of the predeceased spouse, to the predeceased spouse's surviving parent or parents equally.

(3) If there is no surviving issue or parent of the predeceased spouse but the decedent is survived by issue of a parent of the predeceased spouse, to the surviving issue of the parents of the predeceased spouse or either of them, the issue taking equally if they are all of the same degree of kinship to the predeceased spouse, but if of unequal degree those of more remote degree take in the manner provided in Section 240.

(4) If the decedent is not survived by issue, parent, or issue of a parent of the predeceased spouse, to the next of kin of the decedent in the manner provided in Section 6402.

(5) If the portion of the decedent's estate attributable to the decedent's predeceased spouse would otherwise escheat to the state because there is no kin of the decedent to take under Section 6402, the portion of the decedent's estate attributable to the predeceased spouse passes to the next of kin of the predeceased spouse who shall take in the same manner as the next of kin of the decedent take under Section 6402.

(b) For the purposes of this section, the "portion of the decedent's estate attributable to the decedent's predeceased spouse" means all of the following property in the decedent's estate:

(1) One-half of the community real property in existence at the time of the death of the predeceased spouse.

(2) One-half of any community real property, in existence at the time of death of the predeceased spouse, which was given to the decedent by the predeceased spouse by way of gift, descent, or devise.

(3) That portion of any community real property in which the predeceased spouse had any incident of ownership and which vested in the decedent upon the death of the predeceased spouse by right of survivorship.

(4) Any separate real property of the predeceased spouse which came to the decedent by gift, descent, or devise of the predeceased spouse or which vested in the decedent upon the death of the predeceased spouse by right of survivorship.

(c) For the purposes of this section, quasi-community real property shall be treated the same as community real property.

(d) For the purposes of this section:

(1) Relatives of the predeceased spouse conceived before the decedent's death but born thereafter inherit as if they had been born

in the lifetime of the decedent.

(2) A person who is related to the predeceased spouse through two lines of relationship is entitled to only a single share based on the relationship which would entitle the person to the larger share.

SEC. 20.5. Section 6402.5 of the Probate Code is amended to read:

6402.5. (a) If the decedent had a predeceased spouse who died not more than 15 years before the decedent and there is no surviving spouse or issue of the decedent, the portion of the decedent's estate attributable to the decedent's predeceased spouse passes as follows:

(1) If the decedent is survived by issue of the predeceased spouse, to the surviving issue of the predeceased spouse; if they are all of the same degree of kinship to the predeceased spouse they take equally, but if of unequal degree those of more remote degree take in the manner provided in Section 240.

(2) If there is no surviving issue of the predeceased spouse but the decedent is survived by a parent or parents of the predeceased spouse, to the predeceased spouse's surviving parent or parents equally.

(3) If there is no surviving issue or parent of the predeceased spouse but the decedent is survived by issue of a parent of the predeceased spouse, to the surviving issue of the parents of the predeceased spouse or either of them, the issue taking equally if they are all of the same degree of kinship to the predeceased spouse, but if of unequal degree those of more remote degree take in the manner provided in Section 240.

(4) If the decedent is not survived by issue, parent, or issue of a parent of the predeceased spouse, to the next of kin of the decedent in the manner provided in Section 6402.

(5) If the portion of the decedent's estate attributable to the decedent's predeceased spouse would otherwise escheat to the state because there is no kin of the decedent to take under Section 6402, the portion of the decedent's estate attributable to the predeceased spouse passes to the next of kin of the predeceased spouse who shall take in the same manner as the next of kin of the decedent take under Section 6402.

(b) For the purposes of this section, the "portion of the decedent's estate attributable to the decedent's predeceased spouse" means all of the following property in the decedent's estate:

(1) One-half of the community property in existence at the time of the death of the predeceased spouse.

(2) One-half of any community property, in existence at the time of death of the predeceased spouse, which was given to the decedent by the predeceased spouse by way of gift, descent, or devise.

(3) That portion of any community property in which the predeceased spouse had any incident of ownership and which vested in the decedent upon the death of the predeceased spouse by right of survivorship.

(4) Any separate property of the predeceased spouse which came to the decedent by gift, descent, or devise of the predeceased spouse

or which vested in the decedent upon the death of the predeceased spouse by right of survivorship.

(c) For the purposes of this section, quasi-community property shall be treated the same as community property.

(d) For the purposes of this section:

(1) Relatives of the predeceased spouse conceived before the decedent's death but born thereafter inherit as if they had been born in the lifetime of the decedent.

(2) A person who is related to the predeceased spouse through two lines of relationship is entitled to only a single share based on the relationship which would entitle the person to the larger share.

SEC. 21. Section 6408 of the Probate Code is amended to read:

6408. (a) A relationship of parent and child is established for the purpose of determining intestate succession by, through, or from a person in the following circumstances:

(1) Except as provided in Section 6408.5, the relationship of parent and child exists between a person and his or her natural parents, regardless of the marital status of the natural parents.

(2) The relationship of parent and child exists between an adopted person and his or her adopting parent or parents.

(b) For the purpose of determining intestate succession by a person or his or her descendants from or through a foster parent or stepparent, the relationship of parent and child exists between that person and his or her foster parent or stepparent if (1) the relationship began during the person's minority and continued throughout the parties' joint lifetimes and (2) it is established by clear and convincing evidence that the foster parent or stepparent would have adopted the person but for a legal barrier.

(c) For the purpose of determining whether a person is a "natural parent" as that term is used in Section 6408 and 6408.5:

(1) A natural parent and child relationship is established where that relationship is presumed and not rebutted pursuant to the Uniform Parentage Act, Part 7 (commencing with Section 7000) of Division 4 of the Civil Code.

(2) A natural parent and child relationship may be established pursuant to any other provisions of the Uniform Parentage Act, except that the relationship may not be established by an action under subdivision (c) of Section 7006 of the Civil Code unless either (A) a court order was entered during the father's lifetime declaring paternity or (B) paternity is established by clear and convincing evidence that the father has openly and notoriously held out the child as his own.

(d) Nothing in this section affects or limits application of the judicial doctrine of equitable adoption for the benefit of the child or his or her descendants.

SEC. 22. Section 6408.5 of the Probate Code is amended to read:

6408.5. Notwithstanding subdivisions (a) and (b) of Section 6408:

(a) The relationship of parent and child does not exist between an adopted person and his or her natural parent unless both of the

following requirements are satisfied:

(1) The natural parent and adopted person lived together at any time as parent and child, or the natural parent was married to or was cohabitating with the other natural parent at the time the child was conceived and died before the birth of the child.

(2) The adoption was by the spouse of either of the natural parents or after the death of either of the natural parents.

(b) Neither a parent nor a relative of a parent (except for the issue of the child or a wholeblood brother or sister of the child or the issue of such brother or sister) inherits from or through a child on the basis of the relationship of parent and child if the child has been adopted by someone other than the spouse or surviving spouse of that parent.

(c) If a child is born out of wedlock, neither a parent nor a relative of a parent (except for the issue of the child or a natural brother or sister of the child or the issue of that brother or sister) inherits from or through the child on the basis of the relationship of parent and child between that parent and child unless both of the following requirements are satisfied:

(1) The parent or a relative of the parent acknowledged the child.

(2) The parent or a relative of the parent contributed to the support or the care of the child.

SEC. 23. Section 5910 of the Vehicle Code is repealed.

SEC. 24. Section 5910 is added to the Vehicle Code, to read:

5910. (a) Upon the death of an owner or legal owner of a vehicle registered under this code, without the decedent leaving other property necessitating probate, and irrespective of the value of the vehicle, the following person may secure transfer of registration of the title or interest of the decedent:

(1) The surviving husband or wife or other heir in the order named in Section 630 of the Probate Code unless the vehicle is, by will, otherwise bequeathed.

(2) The beneficiary who takes the vehicle under the will of the decedent where the vehicle is, by will, so bequeathed.

(b) The person authorized by subdivision (a) may secure a transfer of registration of the title or interest of the decedent upon presenting to the department all of the following:

(1) The appropriate certificate of ownership and registration card, if available.

(2) A certificate of the heir or beneficiary under penalty of perjury containing the following statements:

(A) The date and place of the decedent's death.

(B) The decedent left no other property necessitating probate and no probate proceeding is now being or has been conducted in this state for the decedent's estate.

(C) The declarant is entitled to the vehicle either (i) as the surviving heir or heirs named in Section 630 of the Probate Code if the decedent left no will or (ii) as the beneficiary or beneficiaries under the decedent's last will if the decedent left a will, and no one

has a right to the decedent's vehicle that is superior to that of the declarant.

(D) There are no unsecured creditors of the decedent or, if there are, the unsecured creditors of the decedent have been paid in full or their claims have been otherwise discharged.

(3) If required by the department, a certificate of the death of the decedent.

(4) If required by the department, the names and addresses of any other heirs or beneficiaries.

(c) The department may prescribe a combined form for use under this section and Section 9916.

SEC. 25. Section 9852.5 is added to the Vehicle Code, to read:

9852.5. Ownership of an undocumented vessel subject to registration may be held by two or more coowners as follows:

(a) A vessel may be registered in the names of two or more persons as coowners in the alternative by the use of the word "or." A vessel so registered in the alternative shall be deemed to be held in joint tenancy. Each coowner shall be deemed to have granted to the other coowners the absolute right to dispose of the title and interest in the vessel. Upon the death of a coowner the interest of the decedent shall pass to the survivor as though title or interest in the vessel was held in joint tenancy unless a contrary intention is set forth in writing upon the application for registration.

(b) A vessel may be registered in the names of two or more persons as coowners in the alternative by the use of the word "or" and if declared in writing upon the application for registration by the applicants to be community property, or tenancy in common, shall grant to each coowner the absolute power to transfer the title or interest of the other coowners only during the lifetime of such coowners.

(c) A vessel may be registered in the names of two or more persons as coowners in the conjunctive by the use of the word "and" and shall thereafter require the signature of each coowner or his personal representative to transfer title to the vessel, except where title to the vessel is set forth in joint tenancy, the signature of each coowner or his or her personal representative shall be required only during the lifetime of the coowners, and upon death of a coowner title shall pass to the surviving coowner.

(d) The department may adopt suitable abbreviations to appear upon the certificate of ownership and certificate of number to designate the manner in which title to the vessel is held if set forth by the coowners upon the application for registration.

SEC. 26. Section 9916 of the Vehicle Code is repealed.

SEC. 27. Section 9916 is added to the Vehicle Code, to read:

9916. (a) If 40 days have elapsed since the death of an owner or legal owner of any vessel numbered under this division without the decedent leaving other property necessitating probate, and irrespective of the value of the vessel, the following person may secure a transfer of ownership of the title or interest of the decedent:

(1) The surviving husband or wife or other heir in the order named in Section 630 of the Probate Code unless the vessel is, by will, otherwise bequeathed.

(2) The beneficiary who takes the vessel under the will of the decedent where the vessel is, by will, so bequeathed.

(b) The person authorized by subdivision (a) may secure a transfer of ownership of the title or interest of the decedent upon presenting to the department all of the following:

(1) The appropriate certificate of ownership and certificate of number, if available.

(2) A certificate of the heir or beneficiary under penalty of perjury containing the following statements:

(A) The date and place of the decedent's death.

(B) The decedent left no other property necessitating probate and no probate proceeding is now being or has been conducted in this state for the decedent's estate.

(C) The declarant is entitled to the vessel either (i) as the surviving heir or heirs named in Section 630 of the Probate Code if the decedent left no will or (ii) as the beneficiary or beneficiaries under the decedent's last will if the decedent left a will, and no one has a right to the decedent's vessel that is superior to that of the declarant.

(D) There are no unsecured creditors of the decedent or, if there are, the unsecured creditors of the decedent have been paid in full or their claims have been otherwise discharged.

(3) If required by the department, a certificate of the death of the decedent.

(4) If required by the department, the names and addresses of any other heirs or beneficiaries.

SEC. 28. Section 20.5 of this bill incorporates amendments to Section 6402.5 of the Probate Code proposed by both this bill and SB 1218. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1986, (2) each bill amends Section 6402.5 of the Probate Code, and (3) this bill is enacted after AB 1218, in which case Section 20 of this bill shall not become operative.

CHAPTER 983

An act to amend Section 1985.3 of the Code of Civil Procedure, to amend Section 25100 of the Corporations Code, to amend Sections 5116, 5120, 5204, 5205.5, 5606, 5654, 5758, 5806, 6002, 6050, 6456, 6503, 6504, 6520, 6521, 6554, 6555, 6556, 6650, 6660, 7000, 7053, 7252, 7450, 7454, 7500, and 7650 of, to add Sections 5100.5, 5114.5, 6663, and 7700.3 to, and to repeal Section 6512 of, the Financial Code, to amend Sections 53601, 53601.5, 53608, 53630, 53635, 53635.5, 53637, 53638, 53648, and 53679 of the Government Code, and to amend Section 771 of the Probate Code, relating to savings associations, and declaring

the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1985 Filed with Secretary of State September 26, 1985]

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

SECTION 1. Section 1985.3 of the Code of Civil Procedure is amended to read:

1985.3. (a) For purposes of this section, the following definitions apply:

(1) "Personal records" means the original or any copy of books, documents, or other writings pertaining to a consumer and which are maintained by any "witness" which is a physician, hospital, state or national bank, state or federal association (as defined in Section 5102 of the Financial Code), state or federal credit union, trust company, security brokerage firm, insurance company, underwritten title company, attorney, accountant, institution of the Farm Credit System, as specified in Section 2002 of Title 12 of the United States Code, or telephone corporation which is a public utility, as defined in Section 216 of the Public Utilities Code.

(2) "Consumer" means any individual, partnership of five or fewer persons, association, or trust which has transacted business with, or has used the services of, the witness or for whom the witness has acted as agent or fiduciary.

(3) "Subpoenaing party" means the person or persons causing a subpoena duces tecum to be issued or served in connection with any civil action or proceeding pursuant to this code, but shall not include the state or local agencies described in Section 7465 of the Government Code, or any entity provided for under Article VI of the California Constitution in any proceeding maintained before an adjudicative body of that entity pursuant to the provisions of Chapter 4 (commencing with Section 6000) of Division 3 of the Business and Professions Code.

(b) The date specified in a subpoena duces tecum for the production of personal records shall not be less than 15 days from the date the subpoena is issued. Prior to the date called for in the subpoena duces tecum for the production of personal records, the subpoenaing party shall serve or cause to be served on the consumer whose records are being sought a copy of the subpoena duces tecum, of the affidavit supporting the issuance of the subpoena, and of the notice described in subdivision (e). This service shall be made both:

(1) To the consumer personally, or at his or her last known address, or in accordance with Chapter 5 (commencing with Section 1010) of Title 14 of Part 3, or, if he or she is a party, to his or her attorney of record.

(2) Not less than 10 days prior to the date for production specified in the subpoena duces tecum, plus the additional time provided by Section 1013 if service is by mail.

(c) Prior to the production of the records, the subpoenaing party shall do either of the following:

(1) Serve or cause to be served upon the witness a proof of personal service or of service by mail attesting to compliance with subdivision (b).

(2) Furnish the witness a written authorization to release the records signed by the consumer or by his or her attorney of record. The witness may presume that any attorney purporting to sign the authorization on behalf of the consumer acted with the consent of the consumer.

(d) A subpoena duces tecum for the production of personal records shall be served in sufficient time to allow the witness a reasonable time to locate and produce the records or copies thereof.

Except as to records subpoenaed for a criminal proceeding or records subpoenaed during trial, a subpoena duces tecum served upon a witness with records in more than one location shall be served no less than 10 days prior to the date specified for production, unless good cause is shown pursuant to subdivision (g).

(e) Every copy of the subpoena duces tecum and affidavit served on a consumer or his or her attorney in accordance with subdivision (b) shall be accompanied by a notice, in a typeface designed to call attention to the notice, indicating that (1) records about the consumer are being sought from the witness named on the subpoena; (2) if the consumer objects to the witness furnishing the records to the party seeking the records, the consumer must file papers with the court prior to the date specified for production on the subpoena; and (3) if the party who is seeking the records will not agree in writing to cancel or limit the subpoena, an attorney should be consulted about the consumer's interest in protecting his or her rights of privacy. If a notice of taking of deposition is also served, that other notice may be set forth in a single document with the notice required by this subdivision.

(f) Any consumer whose personal records are sought by a subpoena duces tecum may, prior to the date for production, bring a motion under Section 1987.1 to quash or modify the subpoena duces tecum. Notice of the bringing of that motion shall be given to the witness prior to production. No witness shall be required to produce personal records after receipt of notice that such a motion has been brought, except upon order of the court in which the action is pending or by agreement of the parties, witnesses, and consumers affected.

(g) Upon good cause shown and provided that the rights of witnesses and consumers are preserved, a subpoenaing party shall be entitled to obtain an order shortening the time for service of a subpoena duces tecum or waiving the requirements of subdivision (b) where due diligence by the subpoenaing party has been shown.

(h) Nothing contained in this section shall be construed to apply to any subpoena duces tecum which does not request the records of any particular consumer or consumers and which requires a

custodian of records to delete all information which would in any way identify any consumer whose records are to be produced.

(i) The provisions of this section shall not apply to proceedings conducted under Division 1 (commencing with Section 50), Division 4 (commencing with Section 3200), Division 4.5 (commencing with Section 6100), or Division 4.7 (commencing with Section 6200) of the Labor Code.

(j) Failure to comply with this section shall be sufficient basis for the witness to refuse to produce the personal records sought by a subpoena duces tecum.

SEC. 1.2. Section 25100 of the Corporations Code is amended to read.

25100. The following securities are exempted from the provisions of Sections 25110, 25120, and 25130:

(a) Any security (including a revenue obligation) issued or guaranteed by the United States, any state, any city, county, city and county, public district, public authority, public corporation, public entity, or political subdivision of a state or any agency or corporate or other instrumentality of any one or more of the foregoing; or any certificate of deposit for any of the foregoing.

(b) Any security issued or guaranteed by the Dominion of Canada, any Canadian province, any political subdivision or municipality of any such province, or by any other foreign government with which the United States currently maintains diplomatic relations, if the security is recognized as a valid obligation by the issuer or guarantor; or any certificate of deposit for any of the foregoing.

(c) Any security issued or guaranteed by and representing an interest in or a direct obligation of a national bank or a bank or trust company incorporated under the laws of this state, and any security issued by a bank to one or more other banks and representing an interest in an asset of the issuing bank.

(d) Any security issued or guaranteed by a federal savings and loan association or federal savings bank or federal land bank or joint land bank or national farm loan association or by any savings association, as defined in subdivision (a) of Section 5102 of the Financial Code, which is subject to the supervision and regulation of the Savings and Loan Commissioner of this state.

(e) Any security (other than an interest in all or portions of a parcel or parcels of real property which are subdivided land or a subdivision or in a real estate development), the issuance of which is subject to authorization by the Insurance Commissioner, the Public Utilities Commission, or the Real Estate Commissioner of this state.

(f) Any security consisting of any interest in all or portions of a parcel or parcels of real property which are subdivided lands or a subdivision or in a real estate development; provided that the exemption in this subdivision shall not be applicable to any investment contract sold or offered for sale with, or as part of, any

such interest, or to any person engaged in the business of selling, distributing or supplying water for irrigation purposes or domestic use which is not a public utility.

(g) Any mutual capital certificates or savings accounts, as defined in the Savings Association Law, issued by a savings association, as defined by subdivision (a) of Section 5102 of the Financial Code, and holding a license or certificate of authority then in force from the Savings and Loan Commissioner of this state.

(h) Any security issued or guaranteed by any federal credit union, or by any credit union organized and supervised, or regulated, under the Credit Union Law.

(i) Any security issued or guaranteed by any railroad, other common carrier, public utility, or public utility holding company which is (1) subject to the jurisdiction of the Interstate Commerce Commission or (2) a holding company registered with the Securities and Exchange Commission under the Public Utility Holding Company Act of 1935 or a subsidiary of such a company within the meaning of that act or (3) regulated in respect of the issuance or guarantee of the security by a governmental authority of the United States, of any state, of Canada or of any Canadian province; and the security is subject to registration with or authorization of issuance by such authority.

(j) Any security (except evidences of indebtedness, whether interest bearing or not) of an issuer (1) organized exclusively for educational, benevolent, fraternal, religious, charitable, social, or reformatory purposes and not for pecuniary profit, if no part of the net earnings of the issuer inures to the benefit of any private shareholder or individual, or (2) organized as a chamber of commerce or trade or professional association. The fact that amounts received from memberships or dues or both will or may be used to construct or otherwise acquire facilities for use by members of the nonprofit organization does not disqualify the organization for this exemption. This exemption does not apply to the securities of any nonprofit organization if any promoter thereof expects or intends to make a profit directly or indirectly from any business or activity associated with the organization or operation of such nonprofit organization or from remuneration received from such nonprofit organization.

(k) Any agreement, commonly known as a "life income contract," of an issuer (1) organized exclusively for educational, benevolent, fraternal, religious, charitable, social, or reformatory purposes and not for pecuniary profit and (2) which the commissioner designates by rule or order, with a donor in consideration of a donation of property to such issuer and providing for the payment to the donor or persons designated by him of income or specified periodic payments from the donated property or other property for the life of the donor or such other persons.

(*l*) Any note, draft, bill of exchange, or banker's acceptance which is freely transferable and of prime quality, arises out of a

current transaction or the proceeds of which have been or are to be used for current transactions, and which evidences an obligation to pay cash within nine months of the date of issuance, exclusive of days of grace, or any renewal of such paper which is likewise limited, or any guarantee of such paper or of any such renewal, provided that such paper is not offered to the public in amounts of less than twenty-five thousand dollars ($25,000) in the aggregate to any one purchaser. In addition, the commissioner may, by rule or order, exempt any issuer of any notes, drafts, bills of exchange or banker's acceptances from qualification of such securities when the commissioner finds that such qualification is not necessary or appropriate in the public interest or for the protection of investors.

(m) Any security issued by any corporation organized and existing under the provisions of Chapter 1 (commencing with Section 54001) of Division 20 of the Food and Agricultural Code.

(n) Any beneficial interest in an employees' pension, profit-sharing, stock bonus or similar benefit plan which meets the requirements for qualification under Section 401 of the Federal Internal Revenue Code or any statute amendatory thereof or supplementary thereto. A determination letter from the Internal Revenue Service stating that an employees' pension, profit-sharing, stock bonus or similar benefit plan meets such requirements shall be conclusive evidence that such plan is an employees' pension, profit-sharing, stock bonus or similar plan within the meaning of the first sentence of this subdivision until the date such determination letter is revoked in writing by the Internal Revenue Service, regardless of whether or not such revocation is retroactive.

(o) Any security listed or approved for listing upon notice of issuance on a national securities exchange certified by rule or order of the commissioner and any warrant or right to purchase or subscribe to any such security.

Such certification of any exchange shall be made by the commissioner upon the written request of the exchange if the commissioner finds that the exchange, in acting on applications for listing of common stock substantially applies each of the minimum standards set forth in subparagraph (1) below, and in considering suspension or removal from listing, substantially applies each of the criteria set forth in subparagraph (2) below.

(1) Listing standards:

(i) Net tangible assets of at least two million dollars ($2,000,000).

(ii) Net income of at least two hundred fifty thousand dollars ($250,000) after all charges including federal income taxes in the fiscal year immediately preceding the filing of a listing application and net income before such taxes of at least five hundred thousand dollars ($500,000).

(iii) Minimum public distribution of 250,000 shares excluding the holdings of officers, directors, controlling shareholders and other concentrated or family holdings among not less than 900 holders including not less than 600 holders of lots of 100 shares or more, with

a corresponding requirement that such securities not be largely held in blocks by institutional investors.

(iv) Minimum price of four dollars ($4) per share for a reasonable period of time prior to the filing of a listing application.

(v) An aggregate market value for publicly held shares of at least one million five hundred thousand dollars ($1,500,000).

(2) Criteria for consideration of suspension or removal from listing:

(i) If a company which (A) has net tangible assets of less than one million dollars ($1,000,000) has sustained net losses in each of its two most recent fiscal years, or (B) has net tangible assets of less than three million dollars ($3,000,000) and has sustained net losses in three of its four most recent fiscal years.

(ii) If the number of shares publicly held (excluding the holdings of officers, directors, controlling shareholders and other concentrated or family holdings) is less than 150,000.

(iii) If the total number of shareholders of record is less than 450 or if the number of shareholders of lots of 100 shares or more is less than 300.

(iv) If the aggregate market value of shares publicly held is less than seven hundred fifty thousand dollars ($750,000).

(v) If shares of common stock sell at a price of less than four dollars ($4) per share for a substantial period of time and the issuer shall fail to effectuate a reverse stock split of such shares within a reasonable period of time after being requested by the exchange to take such action.

The commissioner after appropriate notice and opportunity for hearing in accordance with the provisions of the Administrative Procedure Act, Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, may by rule or order, decertify any exchange previously certified which ceases substantially to apply the standards or criteria as set forth above. A rule or order of certification shall conclusively establish that any security listed or approved for listing upon notice of issuance on any exchange named in a rule or order of certification and any warrant or right to purchase or subscribe to any such security is exempt under this subdivision until the adoption of any rule or order decertifying such exchange.

(p) A promissory note secured by a lien on real property, which is neither one of a series of notes of equal priority secured by interests in the same real property nor a note in which beneficial interests are sold to more than one person or entity.

(q) Any unincorporated interindemnity or reciprocal or interinsurance contract, which qualifies under the provisions of Section 1280.7 of the Insurance Code, between members of a cooperative corporation, organized and operating under Part 2 (commencing with Section 12200) of Division 3 of Title 1, and whose members consist only of physicians and surgeons licensed in California, which contracts indemnify solely in respect to medical

malpractice claims against such members, and which do not collect in advance of loss any moneys other than contributions by each member to a collective reserve trust fund or for necessary expenses of administration.

(1) Whenever it appears to the commissioner that any person has engaged or is about to engage in any act or practice constituting a violation of any provision of Section 1280.7 of the Insurance Code, the commissioner may in the commissioner's discretion bring an action in the name of the people of the State of California in the superior court to enjoin the acts or practices or to enforce compliance with Section 1280.7 of the Insurance Code. Upon a proper showing a permanent or preliminary injunction, restraining order or writ of mandate shall be granted and a receiver or conservator may be appointed for the defendant or the defendant's assets.

(2) The commissioner may, in the commissioner's discretion, (A) make such public or private investigations within or outside of this state as the commissioner deems necessary to determine whether any person has violated or is about to violate any provision of Section 1280.7 of the Insurance Code or to aid in the enforcement of Section 1280.7, and (B) publish information concerning the violation of Section 1280.7.

(3) For the purpose of any investigation or proceeding under this section, the commissioner or any officer designated by the commissioner may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, agreements, or other documents or records which the commissioner deems relevant or material to the inquiry.

(4) In case of contumacy by, or refusal to obey a subpoena issued to, any person, the superior court, upon application by the commissioner, may issue to the person an order requiring the person to appear before the commissioner, or the officer designated by the commissioner, there to produce documentary evidence, if so ordered, or to give evidence touching the matter under investigation or in question. Failure to obey the order of the court may be punished by the court as a contempt.

(5) No person is excused from attending or testifying or from producing any document or record before the commissioner or in obedience to the subpoena of the commissioner or any officer designated by the commissioner, or in any proceeding instituted by the commissioner, on the ground that the testimony or evidence (documentary or otherwise), required of the person may tend to incriminate the person or subject the person to a penalty or forfeiture, but no individual may be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which the person is compelled, after validly claiming the privilege against self-incrimination, to testify or produce evidence (documentary or otherwise), except that the individual testifying is not exempt from prosecution and punishment

for perjury or contempt committed in testifying.

(r) Any shares or memberships issued by any corporation organized and existing pursuant to the provisions of Part 2 (commencing with Section 12200) of Division 3 of Title 1, provided the aggregate investment of any shareholder or member in shares or memberships sold pursuant to this subdivision does not exceed three hundred dollars ($300). This exemption does not apply to the shares or memberships of any such corporation if any promoter thereof expects or intends to make a profit directly or indirectly from any business or activity associated with the corporation or the operation of such corporation or from remuneration, other than reasonable salary, received from such corporation. This exemption does not apply to nonvoting shares or memberships of any such corporation issued to any person who does not possess, and who will not acquire in connection with the issuance of nonvoting shares or memberships, voting power (Section 12253) in the corporation.

(s) Any security consisting of or representing an interest in a pool of mortgage loans which meets each of the following requirements:

(1) The pool consists of whole mortgage loans or participation interests in those loans, which loans were originated or acquired in the ordinary course of business by a national bank or federal savings and loan association or federal savings bank having its principal office in this state, by a bank incorporated under the laws of this state or by a savings association as defined in subdivision (a) of Section 5102 of the Financial Code and which is subject to the supervision and regulation of the Savings and Loan Commissioner, which at the time of transfer to the pool is an authorized investment for such originating or acquiring institution.

(2) The pool of mortgage loans is held in trust by a trustee which is a financial institution specified in paragraph (1) as trustee or otherwise

(3) The loans are serviced by a financial institution specified in paragraph (1).

(4) Such security is not offered in amounts of less than twenty-five thousand dollars ($25,000) in the aggregate to any one purchaser.

(5) Such security is offered pursuant to a registration under the Securities Act of 1933, or pursuant to an exemption under Regulation A under such act, or in the opinion of counsel for the issuer, is offered pursuant to an exemption under Section 4(2) of that act.

SEC. 1.3. Section 5100.5 is added to the Financial Code, to read:

5100.5. "Affiliated person" has the same meaning as the term is defined by Federal Savings and Loan Insurance Corporation regulation 12 C.F.R. 561.29, as amended.

SEC. 1.5. Section 5114.5 is added to the Financial Code, to read:

5114.5. "Residential real estate" means any improved real property that is used or intended to be used as a residence and contains not more than four dwelling units.

SEC. 1.7. Section 5116 of the Financial Code is amended to read.

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. For the purposes of Sections 6661, 6662, and 6663 and Article 4 (commencing with Section 6725) through Article 10 (commencing with Section 7000), inclusive, of Chapter 5 of this division, the term "savings account" includes shares, demand accounts, savings deposits and other savings accounts of federal associations.

SEC. 1.76. Section 5120 of the Financial Code is amended to read:

5120. "Statutory net worth" or "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.

SEC. 1.78. Section 5204 of the Financial Code is amended to read:

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 by the commissioner, 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.

SEC. 1.8. Section 5205.5 of the Financial Code is amended to read:

5205.5. (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 or permitted 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 any financial statement or accounting item of an association to 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. A report utilizing accounting methods required pursuant to the provisions of this subdivision shall not be available for other than purposes as provided by the commissioner.

SEC. 1.9. . Section 5606 of the Financial Code is amended to read:

5606. (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 the Federal Savings and Loan Insurance Corporation.

(b) The commissioner may enforce any statutes or regulations of the Federal Savings and Loan Insurance Corporation, (12 U.S.C. Sec. 1724 et seq. and 12 C.F.R. Sec. 561 et seq.) as these statutes and regulations apply to associations.

SEC. 2. Section 5654 of the Financial Code is amended to read:

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.

(5) Establish or maintain a subsidiary.

(6) Acquire the assets or savings account liabilities from another financial institution.

(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.

(e) Applicants filing under this division shall publish notice as prescribed by the commissioner.

SEC. 2.1. Section 5758 of the Financial Code is amended to read:

5758. The executed agreement, or an executed counterpart of it and the respective certificate of each constituent association or any other corporation and of the surviving association or any other corporation shall be 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 or any other corporation 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. The effective date of the merger or consolidation under this article shall be the date of the filing with the Secretary of State of the copy of the approved agreement of merger or consolidation.

SEC. 2.3. Section 5806 of the Financial Code is amended to read:

5806. Each savings and loan holding company, which is not an individual, 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.

SEC. 2.5. Section 6002 of the Financial Code is amended to read.

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 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 meeting shall convene to each of its members of record at the last address of the member appearing on the books of the association. Such notice shall state the name of the association, the place of the 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 meeting shall convene. Notice need not be given to any member who in person or by proxy, in writing, waives notice of such meeting.

SEC. 3. Section 6050 of the Financial Code is amended to read.

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 not stockholders, members or directors of an association shall have no right of inspection under this section.

SEC. 4. Section 6456 of the Financial Code is amended to read:

6456. Each mutual association shall maintain membership records which shall show the name and address of the member and the date of membership.

SEC. 4.5. Section 6503 of the Financial Code is amended to read:

6503. (a) 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.

(b) No association, without consent of the commissioner, shall enter into any transaction with an affiliated person to buy, lease, or sell real or personal property, or take such property by gift.

SEC. 5. Section 6504 of the Financial Code is amended to read:

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 or savings accounts.

SEC. 6. Section 6512 of the Financial Code is repealed.

SEC. 6.5. Section 6520 of the Financial Code is amended to read:

6520. An association, service corporation, or a person authorized in writing by an association 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 7455 and Section 770.1 of the Insurance Code.

SEC. 7. Section 6521 of the Financial Code is amended to read:

6521. (a) Notwithstanding the provisions of Division 6 (commencing with Section 17000) or any other provision of law, an association or service corporation may act as an escrow agent in connection with the sale, transfer, encumbering or leasing of real or personal property.

(b) The name for any subdivision of an association operating as an

escrow agent pursuant to this section, if different from the name of the association, shall be approved by the commissioner.

SEC. 8. Section 6554 of the Financial Code is amended to read:

6554. Upon receipt of a complete application for a branch office, 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 is proposed to be located.

SEC. 9. Section 6555 of the Financial Code is amended to read:

6555. (a) Before acting on an application for a branch office, the commissioner may hold a hearing at a time and place specified in a notice of hearing.

(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).

(c) 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.

SEC. 9.3. Section 6556 of the Financial Code is amended to read:

6556. (a) Upon review of the application for a branch office or agency and holding a hearing on the branch application, 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.

SEC. 9.5. Section 6650 of the Financial Code is amended to read:

6650. As used in Sections 6655, 6656, 6657, 6659, and 6660:

(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.

(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. Sec. 1601 et seq.) and Regulation Z (12 C.F.R. Sec. 226.1 et seq.), as amended.

SEC. 9.7. Section 6660 of the Financial Code is amended to read:

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 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 an 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.

SEC. 10. Section 6663 is added to the Financial Code, to read.

6663. If any attachment is levied upon any savings account or any other property maintained with an association or federal association, a copy of the writ and notice of attachment shall be served upon the manager or any other officer of the association or federal association Service shall be made at the office or branch at which the savings account or other property is maintained, if the office or branch is in operation at the time of the service or, if the office, agency, or branch is not in operation at the time of service, at the home office of the association or federal association. Writs and notices of attachment which are not so served are not effective as to any savings account or other property maintained with the association or federal association, irrespective of any other provision of law relating to service of attachments.

SEC. 10.5. Section 7000 of the Financial Code is amended to read:

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. The limitations of this subdivision as to the amount of funds which may be on deposit at any one time shall not apply to negotiable certificates of deposit.

(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 federal association, or of a savings and loan holding company or service corporation of the association or federal 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.

SEC. 11. Section 7053 of the Financial Code is amended to read:

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, except as provided by Section 866.3.

SEC. 12. Section 7252 of the Financial Code is amended to read:

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 persons other than associations.

SEC. 12.3. Section 7450 of the Financial Code is amended to read:

7450. (a) An association may make any loan authorized by this division, but the association shall first determine 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.

(b) Subject to any regulations of the commissioner, an association may make loans to any director, officer, or affiliated person, or to any parent or subsidiary.

SEC. 12.4. Section 7454 of the Financial Code is amended to read:

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. The provisions of Title 2 (commencing with Section 1801) of the Civil Code shall not apply to any credit extended by an association pursuant to the provisions of this section.

SEC. 12.5. Section 7500 of the Financial Code is amended to read:

7500. (a) Subject to limitations, if any, within this chapter, an association may originate, invest in, sell, purchase, service, participate, or otherwise deal in (including brokerage or warehousing) loans, including construction loans, made on the security of residential or nonresidential real estate, or interests in such loans.

(b) 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.

(c) For the purpose of determining appraised value, unimproved property without offsite improvements shall be evaluated as though offsite improvements have been installed if a subdivision map has been recorded and a bond or other instrument guaranteeing installation of the offsite improvements has been accepted by the governing authorities in connection with the recording of the subdivision map.

SEC. 12.7. Section 7650 of the Financial Code is amended to read:

7650. (a) Except as provided in subdivision (b), 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.

(b) Associations which do not meet the requirements of Section 6475, or have been issued an order pursuant to Section 8200, shall not take any action pursuant to this section without first obtaining approval, in writing, from the commissioner.

SEC. 13. Section 7700.3 is added to the Financial Code, to read:

7700.3. An association may engage in leasing activities that are the functional equivalent of lending, subject to the limitations of Sections 7701 to 7704, inclusive.

SEC. 14. Section 53601 of the Government Code, as amended by Section 1 of Chapter 741 of the Statutes of 1984, is amended to read:

53601. The legislative body of a local agency having money in a sinking fund of, or surplus money in, its treasury not required for the immediate necessities of the local agency may invest such portion of the money as it deems wise or expedient in:

(a) Bonds issued by it, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by it or by a department, board, agency, or authority thereof.

(b) United States Treasury notes, bonds, bills, or certificates of indebtedness, or those for which the faith and credit of the United States are pledged for the payment of principal and interest.

(c) Registered state warrants or treasury notes or bonds of this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the state or by a department, board, agency, or authority thereof.

(d) Bonds, notes, warrants, or other evidences of indebtedness of any local agency within this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the local agency, or by a department, board, agency, or authority thereof.

(e) Obligations issued by banks for cooperatives, federal land banks, federal intermediate credit banks, federal home loan banks, the Federal Home Loan Bank Board, the Tennessee Valley Authority, or in obligations, participations, or other instruments of or issued by, or fully guaranteed as to principal and interest by, the Federal National Mortgage Association; or in guaranteed portions of Small Business Administration notes; or in obligations, participations, or other instruments of or issued by a federal agency or a United States government-sponsored enterprise.

(f) Bills of exchange or time drafts drawn on and accepted by a commercial bank, otherwise known as bankers acceptances, which are eligible for purchase by the Federal Reserve System. Purchases of bankers acceptances may not exceed 270 days maturity or 40 percent of the agency's surplus money which may be invested pursuant to this section. However, no more than 30 percent of the agency's surplus funds may be invested in the bankers acceptances of any one commercial bank pursuant to this section.

The provisions of this subdivision shall not preclude a municipal utility district from investing any surplus money in its treasury in any

manner authorized by the Municipal Utility District Act.

(g) Commercial paper of "prime" quality of the highest ranking or of the highest letter and numerical rating as provided for by Moody's Investors Service, Inc., or Standard and Poor's Corporation. Eligible paper is further limited to issuing corporations that are organized and operating within the United States and having total assets in excess of five hundred million dollars ($500,000,000) and having an "A" or higher rating for the issuer's debentures, other than commercial paper, as provided for by Moody's Investors Service, Inc., or Standard and Poor's Corporation. Purchases of eligible commercial paper may not exceed 180 days maturity nor represent more than 10 percent of the outstanding paper of an issuing corporation. Purchases of commercial paper may not exceed 15 percent of the agency's surplus money which may be invested pursuant to this section. An additional 15 percent, or a total of 30 percent of the agency's surplus money, may be invested pursuant to this subdivision. The additional 15 percent may be so invested only if the dollar-weighted average maturity of the entire amount does not exceed 31 days. "Dollar-weighted average maturity" means the sum of the amount of each outstanding commercial paper investment multiplied by the number of days to maturity, divided by the total amount of outstanding commercial paper.

(h) Negotiable certificates of deposits issued by a nationally or state-chartered bank or a state or federal association (as defined by Section 5102 of the Financial Code) or by a state-licensed branch of a foreign bank. Purchases of negotiable certificates of deposit may not exceed 30 percent of the agency's surplus money which may be invested pursuant to this section. For purposes of this section, negotiable certificates of deposits do not come within the provisions of Article 2 (commencing with Section 53630) of Chapter 4 of Part 1 of Division 2 of Title 5, except that the amount so invested shall be subject to the limitations of Section 53638.

(i) Investments in repurchase agreements or reverse repurchase agreements of any securities authorized by this section. For purposes of this section, the term "repurchase agreement" means a purchase of securities by the local agency pursuant to an agreement by which the seller will repurchase such securities on or before a specified date, or on demand of either party, and for a specified amount. Such securities, for purpose of repurchase under this subdivision, shall mean securities of the same issuer, description, issue date, and maturity.

(j) Mortgage securities purchased under an agreement to resell pursuant to subdivision (i), provided that the mortgage securities are eligible investments under subdivision (a) or (b) of Section 13000 of the Financial Code. A local agency's investment in a mortgage security shall not exceed 95 percent of the mortgage securities' fair market value and shall not exceed 25 percent of the agency's surplus money which may be invested pursuant to this section.

For purposes of this section, the term "reverse repurchase

agreement" means a sale of securities by the local agency pursuant to an agreement by which the local agency will repurchase such securities on or before a specified date and for a specified amount.

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 enacted before January 1, 1988, deletes or extends that date. If that date is not deleted or extended, then, on and after January 1, 1988, pursuant to Section 9611 of the Government Code, Section 53601 of the Government Code, as amended by Section 1.5 of Chapter 567 of the Statutes of 1983, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 14.5. Section 53601 of the Government Code, as amended by Section 1 of Chapter 741 of the Statutes of 1984, is amended to read:

53601. The legislative body of a local agency having money in a sinking fund of, or surplus money in, its treasury not required for the immediate necessities of the local agency may invest such portion of the money as it deems wise or expedient in:

(a) Bonds issued by it, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by it or by a department, board, agency, or authority thereof.

(b) United States Treasury notes, bonds, bills, or certificates of indebtedness, or those for which the faith and credit of the United States are pledged for the payment of principal and interest.

(c) Registered state warrants or treasury notes or bonds of this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the state or by a department, board, agency, or authority thereof.

(d) Bonds, notes, warrants, or other evidences of indebtedness of any local agency within this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the local agency, or by a department, board, agency, or authority thereof.

(e) Obligations issued by banks for cooperatives, federal land banks, federal intermediate credit banks, federal home loan banks, the Federal Home Loan Bank Board, the Tennessee Valley Authority, or in obligations, participations, or other instruments of or issued by, or fully guaranteed as to principal and interest by, the Federal National Mortgage Association; or in guaranteed portions of Small Business Administration notes; or in obligations, participations, or other instruments of or issued by a federal agency or a United States government-sponsored enterprise.

(f) Bills of exchange or time drafts drawn on and accepted by a commercial bank, otherwise known as bankers acceptances, which are eligible for purchase by the Federal Reserve System. Purchases of bankers acceptances may not exceed 270 days maturity or 40 percent of the agency's surplus money which may be invested pursuant to this section. However, no more than 30 percent of the

agency's surplus funds may be invested in the bankers acceptances of any one commercial bank pursuant to this section.

The provisions of this subdivision shall not preclude a municipal utility district from investing any surplus money in its treasury in any manner authorized by the Municipal Utility District Act.

(g) Commercial paper of "prime" quality of the highest ranking or of the highest letter and numerical rating as provided for by Moody's Investors Service, Inc., or Standard and Poor's Corporation. Eligible paper is further limited to issuing corporations that are organized and operating within the United States and having total assets in excess of five hundred million dollars ($500,000,000) and having an "A" or higher rating for the issuer's debt, other than commercial paper, if any, as provided for by Moody's Investors Service, Inc., or Standard and Poor's Corporation. Purchases of eligible commercial paper may not exceed 180 days maturity nor represent more than 10 percent of the outstanding paper of an issuing corporation. Purchases of commercial paper may not exceed 15 percent of the agency's surplus money which may be invested pursuant to this section. An additional 15 percent, or a total of 30 percent of the agency's surplus money, may be invested pursuant to this subdivision. The additional 15 percent may be so invested only if the dollar-weighted average maturity of the entire amount does not exceed 31 days. "Dollar-weighted average maturity" means the sum of the amount of each outstanding commercial paper investment multiplied by the number of days to maturity, divided by the total amount of outstanding commercial paper.

(h) Negotiable certificates of deposits issued by a nationally or state-chartered bank or a state or federal association (as defined by Section 5102 of the Financial Code) or by a state-licensed branch of a foreign bank. Purchases of negotiable certificates of deposit may not exceed 30 percent of the agency's surplus money which may be invested pursuant to this section. For purposes of this section, negotiable certificates of deposits do not come within the provisions of Article 2 (commencing with Section 53630) of Chapter 4 of Part 1 of Division 2 of Title 5, except that the amount so invested shall be subject to the limitations of Section 53638.

(i) Investments in repurchase agreements or reverse repurchase agreements of any securities authorized by this section, so long as the proceeds of the reverse repurchase agreement are invested solely to supplement the income normally received from these securities. Investment in a reverse repurchase agreement shall be made only upon prior approval of the legislative body of the local agency. For purposes of this section, the term "repurchase agreement" means a purchase of securities by the local agency pursuant to an agreement by which the seller will repurchase such securities on or before a specified date, and for a specified amount and will deliver the underlying securities to the local agency by book entry, physical delivery, or a third-party custodial agreement. Such securities, for purpose of repurchase under this subdivision, shall mean securities

of the same issuer, description, issue date, and maturity. The term "reverse repurchase agreement" means a sale of securities by the local agency pursuant to an agreement by which the local agency will repurchase such securities on or before a specified date and for a specified amount.

(j) Mortgage securities purchased under an agreement to resell pursuant to subdivision (i), provided that the mortgage securities are eligible investments under subdivision (a) or (b) of Section 13000 of the Financial Code. A local agency's investment in a mortgage security shall not exceed 95 percent of the mortgage securities' fair market value and shall not exceed 25 percent of the agency's surplus money which may be invested pursuant to this section.

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 enacted before January 1, 1988, deletes or extends that date. If that date is not deleted or extended, then, on and after January 1, 1988, pursuant to Section 9611 of the Government Code, Section 53601 of the Government Code, as amended by Section 1.5 of Chapter 567 of the Statutes of 1983, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 15. Section 53601 of the Government Code, as amended by Section 1.5 of Chapter 567 of the Statutes of 1983, is amended to read:

53601. The legislative body of a local agency having money in a sinking fund of, or surplus money in, its treasury not required for the immediate necessities of the local agency may invest such portion of the money as it deems wise or expedient in:

(a) Bonds issued by it, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by it or by a department, board, agency, or authority thereof.

(b) United States Treasury notes, bonds, bills, or certificates of indebtedness, or those for which the faith and credit of the United States are pledged for the payment of principal and interest.

(c) Registered state warrants or treasury notes or bonds of this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the state or by a department, board, agency, or authority thereof.

(d) Bonds, notes, warrants, or other evidences of indebtedness of any local agency within this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the local agency, or by a department, board, agency, or authority thereof.

(e) Obligations issued by banks for cooperatives, federal land banks, federal intermediate credit banks, federal home loan banks, the Federal Home Loan Bank Board, the Tennessee Valley Authority, or in obligations, participations, or other instruments of or issued by, or fully guaranteed as to principal and interest by, the Federal National Mortgage Association; or in guaranteed portions of Small Business Administration notes; or in obligations, participations,

or other instruments of or issued by a federal agency or a United States government-sponsored enterprise.

(f) Bills of exchange or time drafts drawn on and accepted by a commercial bank, otherwise known as bankers acceptances, which are eligible for purchase by the Federal Reserve System. Purchases of bankers acceptances may not exceed 270 days maturity or 40 percent of the agency's surplus money which may be invested pursuant to this section. However, no more than 30 percent of the agency's surplus funds may be invested in the bankers acceptances of any one commercial bank pursuant to this section.

The provisions of this subdivision shall not preclude a municipal utility district from investing any surplus money in its treasury in any manner authorized by the Municipal Utility District Act.

(g) Commercial paper of "prime" quality of the highest ranking or of the highest letter and numerical rating as provided for by Moody's Investors Service, Inc., or Standard and Poor's Corporation. Eligible paper is further limited to issuing corporations that are organized and operating within the United States and having total assets in excess of five hundred million dollars ($500,000,000) and having an "A" or higher rating for the issuer's debentures, other than commercial paper, as provided for by Moody's Investors Service, Inc., or Standard and Poor's Corporation. Purchases of eligible commercial paper may not exceed 180 days maturity nor represent more than 10 percent of the outstanding paper of an issuing corporation. Purchases of commercial paper may not exceed 15 percent of the agency's surplus money which may be invested pursuant to this section. An additional 15 percent, or a total of 30 percent of the agency's surplus money, may be invested pursuant to this subdivision. The additional 15 percent may be so invested only if the dollar-weighted average maturity of the entire amount does not exceed 31 days. "Dollar-weighted average maturity" means the sum of the amount of each outstanding commercial paper investment multiplied by the number of days to maturity, divided by the total amount of outstanding commercial paper.

(h) Negotiable certificates of deposits issued by a nationally or state-chartered bank or a state or federal association (as defined by Section 5102 of the Financial Code) or by a state-licensed branch of a foreign bank. Purchases of negotiable certificates of deposit may not exceed 30 percent of the agency's surplus money which may be invested pursuant to this section. For purposes of this section, negotiable certificates of deposits do not come within the provisions of Article 2 (commencing with Section 53630) of Chapter 4 of Part 1 of Division 2 of Title 5, except that the amount so invested shall be subject to the limitations of Section 53638.

(i) Investments in repurchase agreements or reverse repurchase agreements of any securities authorized by this section. For purposes of this section, the term "repurchase agreement" means a purchase of securities by the local agency pursuant to an agreement by which the seller will repurchase such securities on or before a specified

date, or on demand of either party, and for a specified amount. Such securities, for purpose of repurchase under this subdivision, shall mean securities of the same issuer, description, issue date, and maturity.

For purposes of this section, the term "reverse repurchase agreement" means a sale of securities by the local agency pursuant to an agreement by which the local agency will repurchase such securities on or before a specified date and for a specified amount.

SEC. 15.5. Section 53601 of the Government Code, as amended by Section 1.5 of Chapter 567 of the Statutes of 1983, is amended to read:

53601. The legislative body of a local agency having money in a sinking fund of, or surplus money in, its treasury not required for the immediate necessities of the local agency may invest such portion of the money as it deems wise or expedient in:

(a) Bonds issued by it, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by it or by a department, board, agency, or authority thereof.

(b) United States Treasury notes, bonds, bills, or certificates of indebtedness, or those for which the faith and credit of the United States are pledged for the payment of principal and interest.

(c) Registered state warrants or treasury notes or bonds of this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the state or by a department, board, agency, or authority thereof.

(d) Bonds, notes, warrants, or other evidences of indebtedness of any local agency within this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the local agency, or by a department, board, agency, or authority thereof.

(e) Obligations issued by banks for cooperatives, federal land banks, federal intermediate credit banks, federal home loan banks, the Federal Home Loan Bank Board, the Tennessee Valley Authority, or in obligations, participations, or other instruments of or issued by, or fully guaranteed as to principal and interest by, the Federal National Mortgage Association; or in guaranteed portions of Small Business Administration notes; or in obligations, participations, or other instruments of or issued by a federal agency or a United States government-sponsored enterprise.

(f) Bills of exchange or time drafts drawn on and accepted by a commercial bank, otherwise known as bankers acceptances, which are eligible for purchase by the Federal Reserve System. Purchases of bankers acceptances may not exceed 270 days maturity or 40 percent of the agency's surplus money which may be invested pursuant to this section. However, no more than 30 percent of the agency's surplus funds may be invested in the bankers acceptances of any one commercial bank pursuant to this section.

The provisions of this subdivision shall not preclude a municipal

utility district from investing any surplus money in its treasury in any manner authorized by the Municipal Utility District Act.

(g) Commercial paper of "prime" quality of the highest ranking or of the highest letter and numerical rating as provided for by Moody's Investors Service, Inc., or Standard and Poor's Corporation. Eligible paper is further limited to issuing corporations that are organized and operating within the United States and having total assets in excess of five hundred million dollars ($500,000,000) and having an "A" or higher rating for the issuer's debt, other than commercial paper, if any, as provided for by Moody's Investors Service, Inc., or Standard and Poor's Corporation. Purchases of eligible commercial paper may not exceed 180 days maturity nor represent more than 10 percent of the outstanding paper of an issuing corporation. Purchases of commercial paper may not exceed 15 percent of the agency's surplus money which may be invested pursuant to this section. An additional 15 percent, or a total of 30 percent of the agency's surplus money, may be invested pursuant to this subdivision. The additional 15 percent may be so invested only if the dollar-weighted average maturity of the entire amount does not exceed 31 days. "Dollar-weighted average maturity" means the sum of the amount of each outstanding commercial paper investment multiplied by the number of days to maturity, divided by the total amount of outstanding commercial paper.

(h) Negotiable certificates of deposits issued by a nationally or state-chartered bank or a state or federal association (as defined by Section 5102 of the Financial Code) or by a state-licensed branch of a foreign bank. Purchases of negotiable certificates of deposit may not exceed 30 percent of the agency's surplus money which may be invested pursuant to this section. For purposes of this section, negotiable certificates of deposits do not come within the provisions of Article 2 (commencing with Section 53630) of Chapter 4 of Part 1 of Division 2 of Title 5, except that the amount so invested shall be subject to the limitations of Section 53638.

(i) Investments in repurchase agreements or reverse repurchase agreements of any securities authorized by this section, so long as the proceeds of the reverse repurchase agreement are invested solely to supplement the income normally received from these securities. Investment in a reverse repurchase agreement shall be made only upon prior approval of the legislative body of the local agency. For purposes of this section, the term "repurchase agreement" means a purchase of securities by the local agency pursuant to an agreement by which the seller will repurchase such securities on or before a specified date and for a specified amount and will deliver the underlying securities to the local agency by book entry, physical delivery, or by third-party custodial agreement. Such securities, for purpose of repurchase under this subdivision, shall mean securities of the same issuer, description, issue date, and maturity.

The term "reverse repurchase agreement" means a sale of securities by the local agency pursuant to an agreement by which the

local agency will repurchase such securities on or before a specified date and for a specified amount.

SEC. 16. Section 53601.5 of the Government Code is amended to read:

53601.5. The purchase by a local agency of any investment authorized pursuant to Section 53601 or 53601.1, not purchased directly from the issuer, shall be purchased either from an institution licensed by the state as a broker-dealer, as defined in Section 25004 of the Corporations Code, or from a member of a federally regulated securities exchange, from a national or state-chartered bank, from a federal or state association (as defined by Section 5102 of the Financial Code) or from a brokerage firm designated as a primary government dealer by the Federal Reserve bank.

SEC. 17. Section 53608 of the Government Code is amended to read:

53608. The legislative body of a local agency may deposit for safekeeping with a federal or state association (as defined by Section 5102 of the Financial Code), a trust company or a state or national bank located within this state or with the Federal Reserve Bank of San Francisco or any branch thereof within this state, or with any Federal Reserve bank or with any state or national bank located in any city designated as a reserve city by the Board of Governors of the Federal Reserve System, the bonds, notes, bills, debentures, obligations, certificates of indebtedness, warrants, or other evidences of indebtedness in which the money of the local agency is invested pursuant to this article or pursuant to other legislative authority. The local agency shall take from such financial institution a receipt for securities so deposited. The authority of the legislative body to deposit for safekeeping may be delegated by the legislative body to the treasurer of the local agency; the treasurer shall not be responsible for securities delivered to and receipted for by a financial institution until they are withdrawn from the financial institution by the treasurer.

SEC. 18. Section 53630 of the Government Code is amended to read:

53630. As used in this article:

(a) "Local agency" means county, city, city and county, including a chartered city or county, or other public agency or corporation.

(b) "Treasurer" means treasurer of the local agency.

(c) "Depository" means a state or national bank or state or federal association, or a state or federal credit union in which the moneys of a local agency are deposited.

(d) "Agent of depository" means a trust company or trust department of a state or national bank located in this state, including the trust department of a depository where authorized, and the federal home loan bank of San Francisco.

(e) "Security" means any of the eligible securities or obligations listed in Section 53651.

(f) "Pooled securities" means eligible securities held by an agent

of depository for a depository and securing deposits of one or more local agencies.

(g) "Administrator" means the Administrator of Local Agency Security of the State of California.

(h) "State or federal association" or "association" means a savings and loan association or savings bank as defined by Section 5102 of the Financial Code.

SEC. 19. Section 53635 of the Government Code, as amended by Chapter 741 of the Statutes of 1984, is amended to read:

53635. As far as possible, all money belonging to, or in the custody of, a local agency, including money paid to the treasurer or other official to pay the principal, interest, or penalties of bonds, shall be deposited for safekeeping in state or national banks or state or federal associations in the state selected by the treasurer or other official having the legal custody of the money, or may be invested in the following unless otherwise directed by the legislative body pursuant to Section 53601:

(a) Bonds issued by it, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by it or by a department, board, agency, or authority thereof.

(b) United States Treasury notes, bonds, bills, or certificates of indebtedness, or those for which the faith and credit of the United States are pledged for the payment of principal and interest.

(c) Registered state warrants or treasury notes or bonds of this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the state or by a department, board, agency, or authority thereof.

(d) Bonds, notes, warrants, or other evidences of indebtedness of any local agency within this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the local agency, or by a department, board, agency, or authority thereof.

(e) Obligations issued by banks for cooperatives, federal land banks, federal intermediate credit banks, federal home loan banks, the federal home loan bank, the Tennessee Valley Authority, or in obligations, participations, or other instruments of or issued by, or fully guaranteed as to principal and interest by, the Federal National Mortgage Association; or in guaranteed portions of Small Business Administration notes; or in obligations, participations, or other instruments of or issued by a federal agency or a United States government-sponsored enterprise.

(f) Bills of exchange or time drafts drawn on and accepted by a commercial bank, otherwise known as bankers acceptances, which are eligible for purchase by the Federal Reserve System. Purchases of bankers acceptances may not exceed 270 days maturity or 40 percent of the agency's surplus funds which may be invested pursuant to this section. However, no more than 30 percent of the agency's surplus funds may be invested in the bankers acceptances

of any one commercial bank pursuant to this section.

The provisions of this subdivision shall not preclude a municipal utility district from investing any surplus money in its treasury in any manner authorized by the Municipal Utility District Act.

(g) Commercial paper of "prime" quality of the highest ranking or of the highest letter and numerical rating as provided for by Moody's Investors Service, Inc., or Standard and Poor's Corporation. Eligible paper is further limited to issuing corporations that are organized and operating within the United States and having total assets in excess of five hundred million dollars ($500,000,000) and having an "A" or higher rating for the issuer's debentures, other than commercial paper, as provided for by Moody's Investors Service, Inc., or Standard and Poor's Corporation. Purchases of eligible commercial paper may not exceed 180 days maturity nor represent more than 10 percent of the outstanding paper of an issuing corporation. Purchases of commercial paper may not exceed 15 percent of the agency's surplus money which may be invested pursuant to this section. An additional 15 percent, or a total of 30 percent of the agency's money or money in its custody, may be invested pursuant to this subdivision. The additional 15 percent may be so invested only if the dollar-weighted average maturity of the entire amount does not exceed 31 days. "Dollar-weighted average maturity" means the sum of the amount of each outstanding commercial paper investment multiplied by the number of days to maturity, divided by the total amount of outstanding commercial paper.

(h) Negotiable certificates of deposits issued by a nationally or state-chartered bank or a state or federal association or by a state-licensed branch of a foreign bank. Purchases of negotiable certificates of deposit may not exceed 30 percent of the agency's surplus money which may be invested pursuant to this section. For purposes of this section, negotiable certificates of deposits do not come within the provisions of Article 2 (commencing with Section 53630) of Chapter 4 of Part 1 of Division 2 of Title 5, except that the amount so invested shall be subject to the limitations of Section 53638.

(i) Investments in repurchase agreements or reverse repurchase agreements of any securities authorized by this section. For purposes of this section, the term "repurchase agreement" means a purchase of securities by the local agency pursuant to an agreement by which the seller will repurchase such securities on or before a specified date, or on demand of either party, and for a specified amount. Such securities, for purpose of repurchase under this subdivision, shall mean securities of the same issuer, description, issue date, and maturity.

(j) Mortgage securities purchased under an agreement to resell pursuant to subdivision (i), provided that the mortgage securities are eligible investments under subdivision (a) or (b) of Section 13000 of the Financial Code. A local agency's investment in a mortgage

security shall not exceed 95 percent of the mortgage securities' fair market value and shall not exceed 25 percent of the agency's surplus money which may be invested pursuant to this section.

For purposes of this section, the term "reverse repurchase agreement" means a sale of securities by the local agency pursuant to an agreement by which the local agency will repurchase such securities on or before a specified date and for a specified amount.

Investment in a reverse purchase agreement shall be made only upon prior approval of the legislative body of the local agency.

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 enacted before January 1, 1988, deletes or extends that date. If that date is not deleted or extended, then, on and after January 1, 1988, pursuant to Section 9611 of the Government Code, Section 53635 of the Government Code, as amended by Section 2.5 of Chapter 567 of the Statutes of 1983, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 19.5. Section 53635 of the Government Code, as amended by Section 2 of Chapter 741 of the Statutes of 1984 is amended to read:

53635. As far as possible, all money belonging to, or in the custody of, a local agency, including money paid to the treasurer or other official to pay the principal, interest, or penalties of bonds, shall be deposited for safekeeping in state or national banks or state or federal associations in the state selected by the treasurer or other official having the legal custody of the money; or, unless otherwise directed by the legislative body pursuant to Section 53601, may be invested in the following:

(a) Bonds issued by it, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by it or by a department, board, agency, or authority thereof.

(b) United States Treasury notes, bonds, bills, or certificates of indebtedness, or those for which the faith and credit of the United States are pledged for the payment of principal and interest.

(c) Registered state warrants or treasury notes or bonds of this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the state or by a department, board, agency, or authority thereof.

(d) Bonds, notes, warrants, or other evidences of indebtedness of any local agency within this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the local agency, or by a department, board, agency, or authority thereof.

(e) Obligations issued by banks for cooperatives, federal land banks, federal intermediate credit banks, federal home loan banks, the federal home loan bank, the Tennessee Valley Authority, or in obligations, participations, or other instruments of or issued by, or fully guaranteed as to principal and interest by, the Federal National Mortgage Association; or in guaranteed portions of Small Business

Administration notes; or in obligations, participations, or other instruments of or issued by a federal agency or a United States government-sponsored enterprise.

(f) Bills of exchange or time drafts drawn on and accepted by a commercial bank, otherwise known as bankers acceptances, which are eligible for purchase by the Federal Reserve System. Purchases of bankers acceptances may not exceed 270 days maturity or 40 percent of the agency's surplus funds which may be invested pursuant to this section. However, no more than 30 percent of the agency's surplus funds may be invested in the bankers acceptances of any one commercial bank pursuant to this section.

The provisions of this subdivision shall not preclude a municipal utility district from investing any surplus money in its treasury in any manner authorized by the Municipal Utility District Act.

(g) Commercial paper of "prime" quality of the highest ranking or of the highest letter and numerical rating as provided for by Moody's Investors Service, Inc., or Standard and Poor's Corporation. Eligible paper is further limited to issuing corporations that are organized and operating within the United States and having total assets in excess of five hundred million dollars ($500,000,000) and having an "A" or higher rating for the issuer's debt, other than commercial paper, if any, as provided for by Moody's Investors Service, Inc., or Standard and Poor's Corporation. Purchases of eligible commercial paper may not exceed 180 days maturity nor represent more than 10 percent of the outstanding paper of an issuing corporation. Purchases of commercial paper may not exceed 15 percent of the agency's surplus money which may be invested pursuant to this section. An additional 15 percent, or a total of 30 percent of the agency's money or money in its custody, may be invested pursuant to this subdivision. The additional 15 percent may be so invested only if the dollar-weighted average maturity of the entire amount does not exceed 31 days. "Dollar-weighted average maturity" means the sum of the amount of each outstanding commercial paper investment multiplied by the number of days to maturity, divided by the total amount of outstanding commercial paper.

(h) Negotiable certificates of deposits issued by a nationally or state-chartered bank or a state or federal association or by a state-licensed branch of a foreign bank. Purchases of negotiable certificates of deposit may not exceed 30 percent of the agency's surplus money which may be invested pursuant to this section. For purposes of this section, negotiable certificates of deposits do not come within the provisions of Article 2 (commencing with Section 53630) of Chapter 4 of Part 1 of Division 2 of Title 5, except that the amount so invested shall be subject to the limitations of Section 53638.

(i) Investments in repurchase agreements or reverse repurchase agreements of any securities authorized by this section, so long as the proceeds of the reverse repurchase agreement are invested solely to

supplement the income normally received from these securities. Investment in a reverse repurchase agreeement shall be made only upon prior approval of the legislative body of the local agency. For purposes of this section, the term "repurchase agreement" means a purchase of securities by the local agency pursuant to an agreement by which the seller will repurchase such securities on or before a specified date, and for a specified amount and will deliver the underlying securities to the local agency by book entry, physical delivery, or a third-party custodial agreement. Such securities, for purpose of repurchase under this subdivision, shall mean securities of the same issuer, description, issue date, and maturity. The term "reverse repurchase agreement" means a sale of securities by the local agency pursuant to an agreement by which the local agency will repurchase such securities on or before a specified date and for a specified amount.

(j) Mortgage securities purchased under an agreement to resell pursuant to subdivision (i), provided that the mortgage securities are eligible investments under subdivision (a) or (b) of Section 13000 of the Financial Code. A local agency's investment in a mortgage security shall not exceed 95 percent of the mortgage securities' fair market value and shall not exceed 25 percent of the agency's surplus money which may be invested pursuant to this section.

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 enacted before January 1, 1988, deletes or extends that date. If that date is not deleted or extended, then, on and after January 1, 1988, pursuant to Section 9611 of the Government Code, Section 53635 of the Government Code, as amended by Section 2.5 of Chapter 567 of the Statutes of 1983, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 20. Section 53635 of the Government Code, as amended by Section 2.5 of Chapter 567 of the Statutes of 1983, is amended to read:

53635. As far as possible, all money belonging to, or in the custody of, a local agency, including money paid to the treasurer or other official to pay the principal, interest, or penalties of bonds, shall be deposited for safekeeping in state or national banks or state or federal associations in the state selected by the treasurer or other official having the legal custody of the money, or may be invested in the following unless otherwise directed by the legislative body pursuant to Section 53601:

(a) Bonds issued by it, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by it or by a department, board, agency, or authority thereof.

(b) United States Treasury notes, bonds, bills, or certificates of indebtedness, or those for which the faith and credit of the United States are pledged for the payment of principal and interest.

(c) Registered state warrants or treasury notes or bonds of this state, including bonds payable solely out of the revenues from a

revenue-producing property owned, controlled, or operated by the state or by a department, board, agency, or authority thereof.

(d) Bonds, notes, warrants, or other evidences of indebtedness of any local agency within this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the local agency, or by a department, board, agency, or authority thereof.

(e) Obligations issued by banks for cooperatives, federal land banks, federal intermediate credit banks, federal home loan banks, the federal home loan bank, the Tennessee Valley Authority, or in obligations, participations, or other instruments of or issued by, or fully guaranteed as to principal and interest by, the Federal National Mortgage Association; or in guaranteed portions of Small Business Administration notes; or in obligations, participations, or other instruments of or issued by a federal agency or a United States government-sponsored enterprise.

(f) Bills of exchange or time drafts drawn on and accepted by a commercial bank, otherwise known as bankers acceptances, which are eligible for purchase by the Federal Reserve System. Purchases of bankers acceptances may not exceed 270 days maturity or 40 percent of the agency's surplus funds which may be invested pursuant to this section. However, no more than 30 percent of the agency's surplus funds may be invested in the bankers acceptances of any one commercial bank pursuant to this section.

The provisions of this subdivision shall not preclude a municipal utility district from investing any surplus money in its treasury in any manner authorized by the Municipal Utility District Act.

(g) Commercial paper of "prime" quality of the highest ranking or of the highest letter and numerical rating as provided for by Moody's Investors Service, Inc., or Standard and Poor's Corporation. Eligible paper is further limited to issuing corporations that are organized and operating within the United States and having total assets in excess of five hundred million dollars ($500,000,000) and having an "A" or higher rating for the issuer's debentures, other than commercial paper, as provided for by Moody's Investors Service, Inc., or Standard and Poor's Corporation. Purchases of eligible commercial paper may not exceed 180 days maturity nor represent more than 10 percent of the outstanding paper of an issuing corporation. Purchases of commercial paper may not exceed 15 percent of the agency's surplus money which may be invested pursuant to this section. An additional 15 percent, or a total of 30 percent of the agency's money or money in its custody, may be invested pursuant to this subdivision. The additional 15 percent may be so invested only if the dollar-weighted average maturity of the entire amount does not exceed 31 days. "Dollar-weighted average maturity" means the sum of the amount of each outstanding commercial paper investment multiplied by the number of days to maturity, divided by the total amount of outstanding commercial paper.

(h) Negotiable certificates of deposits issued by a nationally or state-chartered bank or a state or federal association or by a state-licensed branch of a foreign bank. Purchases of negotiable certificates of deposit may not exceed 30 percent of the agency's surplus money which may be invested pursuant to this section. For purposes of this section, negotiable certificates of deposits do not come within the provisions of Article 2 (commencing with Section 53630) of Chapter 4 of Part 1 of Division 2 of Title 5, except that the amount so invested shall be subject to the limitations of Section 53638.

(i) Investments in repurchase agreements or reverse repurchase agreements of any securities authorized by this section. For purposes of this section, the term "repurchase agreement" means a purchase of securities by the local agency pursuant to an agreement by which the seller will repurchase such securities on or before a specified date, or on demand of either party, and for a specified amount. Such securities, for purpose of repurchase under this subdivision, shall mean securities of the same issuer, description, issue date, and maturity.

For purposes of this section, the term "reverse repurchase agreement" means a sale of securities by the local agency pursuant to an agreement by which the local agency will repurchase such securities on or before a specified date and for a specified amount.

Investment in a reverse purchase agreement shall be made only upon prior approval of the legislative body of the local agency.

SEC. 20.5. Section 53635 of the Government Code, as amended by Section 2.5 of Chapter 567 of the Statutes of 1983, is amended to read:

53635. As far as possible, all money belonging to, or in the custody of, a local agency, including money paid to the treasurer or other official to pay the principal, interest, or penalties of bonds, shall be deposited for safekeeping in state or national banks or state or federal savings and loan associations in the state selected by the treasurer or other official having the legal custody of the money, or, unless otherwise directed by the legislative body pursuant to Section 53601, may be invested in the following:

(a) Bonds issued by it, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by it or by a department, board, agency, or authority thereof.

(b) United States Treasury notes, bonds, bills, or certificates of indebtedness, or those for which the faith and credit of the United States are pledged for the payment of principal and interest.

(c) Registered state warrants or treasury notes or bonds of this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the state or by a department, board, agency, or authority thereof.

(d) Bonds, notes, warrants, or other evidences of indebtedness of any local agency within this state, including bonds payable solely out

of the revenues from a revenue-producing property owned, controlled, or operated by the local agency, or by a department, board, agency, or authority thereof.

(e) Obligations issued by banks for cooperatives, federal land banks, federal intermediate credit banks, federal home loan banks, the federal home loan bank, the Tennessee Valley Authority, or in obligations, participations, or other instruments of or issued by, or fully guaranteed as to principal and interest by, the Federal National Mortgage Association; or in guaranteed portions of Small Business Administration notes; or in obligations, participations, or other instruments of or issued by a federal agency or a United States government-sponsored enterprise.

(f) Bills of exchange or time drafts drawn on and accepted by a commercial bank, otherwise known as bankers acceptances, which are eligible for purchase by the Federal Reserve System. Purchases of bankers acceptances may not exceed 270 days maturity or 40 percent of the agency's surplus funds which may be invested pursuant to this section. However, no more than 30 percent of the agency's surplus funds may be invested in the bankers acceptances of any one commercial bank pursuant to this section.

The provisions of this subdivision shall not preclude a municipal utility district from investing any surplus money in its treasury in any manner authorized by the Municipal Utility District Act.

(g) Commercial paper of "prime" quality of the highest ranking or of the highest letter and numerical rating as provided for by Moody's Investors Service, Inc., or Standard and Poor's Corporation. Eligible paper is further limited to issuing corporations that are organized and operating within the United States and having total assets in excess of five hundred million dollars ($500,000,000) and having an "A" or higher rating for the issuer's debt, other than commercial paper, if any, as provided for by Moody's Investors Service, Inc., or Standard and Poor's Corporation. Purchases of eligible commercial paper may not exceed 180 days maturity nor represent more than 10 percent of the outstanding paper of an issuing corporation. Purchases of commercial paper may not exceed 15 percent of the agency's surplus money which may be invested pursuant to this section. An additional 15 percent, or a total of 30 percent of the agency's money or money in its custody, may be invested pursuant to this subdivision. The additional 15 percent may be so invested only if the dollar-weighted average maturity of the entire amount does not exceed 31 days. "Dollar-weighted average maturity" means the sum of the amount of each outstanding commercial paper investment multiplied by the number of days to maturity, divided by the total amount of outstanding commercial paper.

(h) Negotiable certificates of deposits issued by a nationally or state-chartered bank or a state or federal association or by a state-licensed branch of a foreign bank. Purchases of negotiable certificates of deposit may not exceed 30 percent of the agency's

surplus money which may be invested pursuant to this section. For purposes of this section, negotiable certificates of deposits do not come within the provisions of Article 2 (commencing with Section 53630) of Chapter 4 of Part 1 of Division 2 of Title 5, except that the amount so invested shall be subject to the limitations of Section 53638.

(i) Investments in repurchase agreements or reverse repurchase agreements of any securities authorized by this section, so long as the proceeds of the reverse repurchase agreement are invested solely to supplement the income normally received from these securities. Investment in a reverse repurchase agreement shall be made only upon prior approval of the legislative body of the local agency. For purposes of this section, the term "repurchase agreement" means a purchase of securities by the local agency pursuant to an agreement by which the seller will repurchase such securities on or before a specified date and for a specified amount and will deliver the underlying securities to the local agency by book entry, physical delivery, or by third-party custodial agreement. Such securities, for purpose of repurchase under this subdivision, shall mean securities of the same issuer, description, issue date, and maturity.

The term "reverse repurchase agreement" means a sale of securities by the local agency pursuant to an agreement by which the local agency will repurchase such securities on or before a specified date and for a specified amount.

SEC. 21. Section 53635.5 of the Government Code is amended to read:

53635.5. The purchase by a local agency of any investment authorized pursuant to Section 53635, not purchased directly from the issuer, shall be purchased either from an institution licensed by the state as a broker-dealer, as defined in Section 25004 of the Corporations Code, or from a member of a federally regulated securities exchange, from a national or state-chartered bank, from a federal or state association, or from a brokerage firm designated as a primary government dealer by the Federal Reserve bank.

SEC. 22. Section 53637 of the Government Code, as amended by Chapter 489 of the Statutes of 1978, is amended to read:

53637. The money shall be deposited in any depositary selected from those banks and those associations agreeing to pay the highest rate of interest.

SEC. 23. Section 53638 of the Government Code, as amended by Chapter 1224 of the Statutes of 1982, is amended to read:

53638. (a) The deposit shall not exceed the total of the paid-up capital and surplus of any depositary bank. For the purposes of this subdivision, paid-up capital shall be deemed to include capital notes and debentures.

(b) The deposit shall not exceed the total of the net worth of any depositary association, except that deposits not exceeding a total of five hundred thousand dollars ($500,000) may be made to a savings and loan association without regard to the net worth of that

depositary, if such deposits are insured or secured as required by law.

SEC. 24. Section 53648 of the Government Code, as amended by Chapter 349 of the Statutes of 1976, is amended to read:

53648. Notwithstanding this article, the treasurer may deposit moneys in, and enter into contracts with, a state or national bank or state or federal association pursuant to a federal law or a rule of a federal department or agency adopted pursuant to the law if the law or rule conflicts with this article in regulating the payment of interest on deposits of public moneys by banks which are Federal Reserve System members or whose deposits are insured by the Federal Deposit Insurance Corporation or by associations which are federal home loan bank members or whose deposits are insured by the Federal Savings and Loan Insurance Corporation.

SEC. 25. Section 53679 of the Government Code is amended to read:

53679. So far as possible all money belonging to a local agency under the control of any of its officers or employees other than the treasurer or a judge or officer of a justice or municipal court shall, and all money coming into the possession of a judge or officer of a justice or municipal court may, be deposited as active deposits in the state or national bank, inactive deposits in the state or national bank or state or federal association, or federal or state credit union in this state selected by the officer, employee, or judge of the court. For purposes of this section, an officer or employee of a local agency and a judge or officer of a justice or municipal court are prohibited from depositing local agency funds or money coming into their possession into a state or federal credit union if an officer or employee of the local agency, or a judge or officer of a justice or municipal court, also serves on the board of directors, or any committee appointed by the board of directors, or the credit committee or supervisory committee, of the particular state or federal credit union. Such money is subject to this article except:

(a) Deposits in an amount less than that insured pursuant to federal law are not subject to this article.

For deposits in excess of the amount insured under any federal law a contract in accordance with Section 53649 is required and the provisions of this article shall apply.

(b) Interest is not required on money deposited in an active deposit by a judge or officer of a justice or municipal court.

(c) Interest is not required on money deposited in an active deposit by an officer having control of a revolving fund created pursuant to Chapter 2 (commencing with Section 29300) of Division 3 of Title 3.

(d) Interest is not required on money deposited in an active deposit by an officer having control of a special fund established pursuant to Articles 5 (commencing with Section 29400) or 6 (commencing with Section 29430) of Chapter 2 of Division 3 of Title 3.

SEC. 26. Section 771 of the Probate Code is amended to read:

771. (a) Stocks, bonds, voting trust certificates, stock warrants or subscription rights, land trust certificates, certificates of beneficial interest in trusts, investment trust certificates, mortgage participation certificates, or any other securities, or certificates of deposit for any of the foregoing, may be sold, or may be surrendered for redemption or conversion, and title thereto passed without the necessity for confirmation, upon obtaining an order of the court. A petition for the order shall be filed with the clerk, who shall set the same for hearing by the court and shall give notice thereof for the period and in the manner required by Section 1200. The petitioner shall give notice of the hearing in the manner specified in Section 1200.5, but the court or judge may order the notice to be given for a shorter period or dispensed with. The order shall fix the terms and conditions of sale, and when the minimum selling price is fixed or when the securities are to be sold upon an established stock or bond exchange, or surrendered for redemption or conversion, no notice of sale or of the redemption or conversion need be given.

(b) This section shall not be applicable to the sale of note or notes secured by a mortgage or deed of trust unless the note or notes have been authorized or permitted to be issued by the Commissioner of Corporations, or have been made by a public utility subject to the provisions of the Public Utilities Act.

(c) Notwithstanding subdivisions (a) and (b), savings accounts and mutual capital certificates of a savings association or federal association may be sold or surrendered for withdrawal, and title thereto passed, without notice, prior order of court, or subsequent confirmation by the court, if an amount of money is obtained upon the sale or withdrawal not less than the withdrawal value of the savings account or the value of the mutual capital certificate. As used in this subdivision, the following definitions are applicable:

(1) "Federal association" has the same meaning as defined in Section 5102 of the Financial Code.

(2) "Mutual capital certificate" has the same meaning as defined in Section 5111 of the Financial Code.

(3) "Savings account" has the same meaning as defined in Section 5116 of the Financial Code.

(4) "Savings association" has the same meaning as defined in Section 5102 of the Financial Code.

(5) "Withdrawal value" has the same meaning as defined in Section 5124 of the Financial Code.

SEC. 27. Section 14.5 of this bill incorporates amendments to Section 53601 of the Government Code, as amended by Section 1 of Chapter 741 of the Statutes of 1984, proposed by both this bill and SB 115. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1986, but this bill becomes operative first, (2) each bill amends Section 53601 of the Government Code, as amended by Section 1 of Chapter 741 of the Statutes of 1984, and (3) this bill is enacted after SB 115, in which case Section 53601 of the Government Code, as amended by Section 14 of

this bill, shall remain operative only until the operative date of SB 115, at which time Section 14.5 of this bill shall become operative.

SEC. 28. Section 15.5 of this bill incorporates amendments to Section 53601 of the Government Code, as amended by Section 1.5 of Chapter 567 of the Statutes of 1983, proposed by both this bill and SB 115. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1986, but this bill becomes operative first, (2) each bill amends Section 53601 of the Government Code, as amended by Section 1.5 of Chapter 567 of the Statutes of 1983, and (3) this bill is enacted after SB 115, in which case Section 53601 of the Government Code, as amended by Section 15 of this bill, shall remain operative only until the operative date of SB 115, at which time Section 15.5 of this bill shall become operative.

SEC. 29. Section 19.5 of this bill incorporates amendments to Section 53635 of the Government Code, as amended by Section 2 of Chapter 741 of the Statutes of 1984, proposed by both this bill and SB 115. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1986, but this bill becomes operative first, (2) each bill amends Section 53635 of the Government Code, as amended by Section 2 of Chapter 741 of the Statutes of 1984, and (3) this bill is enacted after SB 115, in which case Section 53635 of the Government Code, as amended by Section 19 of this bill, shall remain operative only until the operative date of SB 115, at which time Section 19.5 of this bill shall become operative.

SEC. 30. Section 20.5 of this bill incorporates amendments to Section 53635 of the Government Code, as amended by Section 2.5 of Chapter 567 of the Statutes of 1983, proposed by both this bill and SB 115. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1986, but this bill becomes operative first, (2) each bill amends Section 53635 of the Government Code, as amended by Section 2.5 of Chapter 567 of the Statutes of 1983, and (3) this bill is enacted after SB 115, in which case Section 53635 of the Government Code, as amended by Section 20 of this bill, shall remain operative only until the operative date of SB 115, at which time Section 20.5 of this bill shall become operative.

SEC. 31. This act is an urgency statute necessary for the immediate preservation of 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:

Division 2 (commencing with Section 5000) of the Financial Code was repealed and added by Assembly Bill 1434 (Chapter 1091 of the Statutes of 1983). It completely revised that area of the law governing regulation of state savings associations. A number of technical deficiencies or unintentional deletions have been determined to be in immediate need of correction in order to retain the necessary consistency in the law, particularly as to terms or cross-references in other codes which were based upon Division 2 prior to its revision by Chapter 1091. In order to preserve certainty in the operating environment of state savings associations as to the

services they may offer to the public, it is essential that this act take effect immediately.

CHAPTER 984

An act to amend Section 1203d of the Penal Code, relating to crime.

[Approved by Governor September 25, 1985 Filed with Secretary of State September 26, 1985.]

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

SECTION 1. Section 1203d of the Penal Code is amended to read:

1203d. No court shall pronounce judgment upon any defendant, as to whom the court has requested a probation report pursuant to Section 1203.10, unless a copy of the probation report has been made available to the court, the prosecuting attorney, and the defendant or his or her attorney, at least two days or, upon the request of the defendant, five days prior to the time fixed by the court for consideration of the report with respect to pronouncement of judgment. The report shall be filed with the clerk of the court as a record in the case at the time the court considers the report.

If the defendant is not represented by an attorney, the court, upon ordering the probation report, shall also order the probation officer who prepares the report to discuss its contents with the defendant.

The sentence recommendations of the report shall also be made available to the victim of the crime, or the victim's next of kin if the victim has died, through the district attorney's office. The victim or the victim's next of kin shall be informed of the availability of this information through the notice provided pursuant to Section 1191.1.

SEC. 2. No reimbursement shall be made from the State Mandates Claims Fund pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code for costs mandated by the state pursuant to this act. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Part 7 (commencing with Section 17500) and any other provisions of law.

CHAPTER 985

An act to amend Section 845 of the Civil Code, to amend Sections 23014, 25120, 25210.9c, 25210.73, 25562, 26907, 31101, 50078.11, 50078.12, 54902.5, 54974, 61601.14, and 65850 of, and to add Sections 25084, 50077.5, 53979, and 61601.16 to, the Government Code, to amend Section 5473.4 of, and to add Section 13841.13 to, the Health

and Safety Code, to amend Sections 11825, 11828, 11850, 11853, 11861, 11863, 11890, 11940, and 11941 of the Public Utilities Code, to amend Section 6 of Chapter 52 of the Statutes of 1941, to amend Sections 18, 30, 31, 33, 48, 53, 90, 91, and 150 of, and to repeal and add Section 66 of, the Fairfield-Suisun Sewer District Act (Chapter 303 of the Statutes of 1951), and to amend Section 5.4 of the Monterey County Flood Control and Water Conservation District Act (Chapter 699 of the Statutes of 1947), relating to local government.

[Approved by Governor September 25, 1985. Filed with Secretary of State September 26, 1985]

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

SECTION 1. Section 845 of the Civil Code is amended to read:

845. (a) The owner of any easement in the nature of a private right-of-way, or of any land to which any such easement is attached, shall maintain it in repair.

(b) If the easement is owned by more than one person, or is attached to parcels of land under different ownership, the cost of maintaining it in repair shall be shared by each owner of the easement or the owners of the parcels of land, as the case may be, pursuant to the terms of any agreement entered into by the parties for that purpose. If any owner who is a party to the agreement refuses to perform or fails after demand in writing to pay the owner's proportion of the cost, an action for specific performance or contribution may be brought against that owner in a court of competent jurisdiction by the other owners, either jointly or severally.

(c) In the absence of an agreement, the cost shall be shared proportionately to the use made of the easement by each owner.

Any owner of the easement, or any owner of land to which the easement is attached, may apply to any court where the right-of-way is located and that has jurisdiction over the amount in controversy for the appointment of an impartial arbitrator to apportion the cost. The application may be made before, during, or after performance of the maintenance work. If the arbitration award is not accepted by all of the owners, the court may enter a judgment determining the proportionate liability of each owner. The judgment may be enforced as a money judgment by any party against any other party to the action.

(d) The provisions of this section do not apply to rights-of-way held or used by railroad common carriers subject to the jurisdiction of the Public Utilities Commission.

SEC. 1.5. Section 23014 of the Government Code in amended to read:

23014. Pursuant to a resolution adopted by its board of supervisors by a four-fifths vote of all of the members of the board of supervisors, a county may appropriate any of its available moneys

to a revolving fund not to exceed five hundred thousand dollars ($500,000) to be used by any county sanitation district, county flood control district, or county maintenance district, located wholly within the county for the acquisition of real or personal property, environmental impact studies, fiscal analysis, engineering services, or the construction of structures or improvements needed in whole or in part for district purposes. The revolving fund shall be reimbursed from service fees, connection charges, tax revenues or other moneys available to the district, and no sums shall be disbursed from the fund until an agreement with a term not exceeding 10 years has been made between the board of supervisors and the governing board of the district encompassing the method by, and the time within, which the district is to reimburse the fund. Reimbursement of the fund from tax revenue shall not exceed in any one fiscal year an amount equal to one cent ($0.01) on the tax rate or twenty-five thousand dollars ($25,000), whichever is less. The district shall reimburse the fund for any amount disbursed to the district within 10 years after disbursement, together with interest at the current rate per annum received on similar types of investments by the county as determined by the county treasurer.

SEC. 2. Section 25084 is added to the Government Code, to read:

25084. Whenever the board of supervisors of any county is required by law to receive proposals or bids after publication of a resolution or other public notice, the board may, by resolution, designate an officer or employee of the county to open, examine, and announce the proposals or bids at a public meeting at the time and place set forth in the resolution.

SEC. 2.5. Section 25120 of the Government Code is amended to read:

25120. The enacting clause of all ordinances of the board of supervisors shall be as follows: "The Board of Supervisors of the County of _____ ordains as follows."

SEC. 3. Section 25210.9c of the Government Code is amended to read:

25210.9c. Pursuant to a resolution adopted by a four-fifths vote of all the members of its board of supervisors, a county may appropriate any of its available moneys to a revolving fund not to exceed one million dollars ($1,000,000) to be used for the acquisition of real or personal property, environmental impact studies, fiscal analysis, engineering services, salaries, wages, services, supplies, or the construction of structures or improvements needed in whole or in part to provide one or more extended services to a county service area located wholly within the county. The revolving fund shall be reimbursed from service fees, connection charges, tax revenues or other moneys available from the service area, and no sums shall be disbursed from the fund until the board has, by resolution, established the method by and term, not exceeding 10 years, within which the county service area is to reimburse the fund. The service area shall reimburse the fund for any amount disbursed to the service

area within 10 years after disbursement, together with interest at the current rate per annum received on similar types of investments by the county as determined by the county treasurer.

SEC. 6. Section 25210.73 of the Government Code is amended to read:

25210.73. On or before August 31 of each year, as the board of supervisors directs, the county officer or officers required by law to perform miscellaneous extended services or designated by the board of supervisors as the officer whose duty it is to provide miscellaneous extended services subject to the direction of the board of supervisors, shall file with the board of supervisors and the county auditor an estimate, accompanied by any supporting data the board of supervisors may require, of the cost of providing the miscellaneous extended services determined upon by the resolution of the board of supervisors. The estimate shall show the amount of money required for general fund purposes and for salary fund purposes.

SEC. 7. Section 25562 of the Government Code is amended to read:

25562. In counties having a population in excess of 250,000, the board of supervisors may provide, by contract, with any person, firm, or corporation, for performances within the county including, but not limited to, operas, symphonies, band concerts and other instrumental concerts, historical or commemorative pageants, choral concerts, plays or other related presentations (with or without music), ballet, dance, recitals, exhibitions, and readings. A charge may be made for attendance at these performances. The contract shall provide that the management and control of the performances shall be under the supervision of the board of supervisors or shall provide specifically for those matters which cannot legally be delegated by the board of supervisors. The contract may also provide for the reimbursement of the county, insofar as possible, out of any net profits derived from the performance by the person, firm, or corporation.

In counties of the second class, as determined by Sections 28020 and 28023, the board of supervisors may provide, by contract, with a nonprofit corporation organized under the laws of the State of California, for the expenditure of county funds to aid in the construction by the corporation of a theater or similar facility in which the county does not have an ownership interest. This theater may be used for the performance of plays, dramas, cultural, social, educational, and other events and presentations of benefit to the people of the county. The contract may permit admission fees to be charged for events in the theater, but the contract shall require the corporation to construct and operate the theater in a manner which will insure that the county's funds are utilized for public purposes of benefit to the people of the county.

SEC. 8. Section 26907 of the Government Code is amended to read:

26907. Notwithstanding Section 26201, 26202, or 26205, the

auditor or ex officio auditor may destroy any county, school, or special district claim, warrant, or any other paper issued as a warrant voucher which is more than five years old, or at any time after the document has been photographed, microphotographed, reproduced by electronically recorded video images on magnetic surfaces, or reproduced on film of a type approved for permanent photographic records by the National Bureau of Standards if the copy is kept or maintained for five years from the date of the document.

The auditor may make a photographic record of an index or warrant register and may provide for the destruction of the index or warrant register. Any index or warrant register which is over 15 years old may be destroyed without being photographically or microphotographically reproduced.

SEC. 9. Section 31101 of the Government Code is amended to read:

31101. This part does not limit any powers conferred on any county by charter or any powers conferred on boards of supervisors of counties by subdivision (b) of Section 1 or Section 4 of Article XI of the California Constitution.

SEC. 10. Section 50077.5 is added to the Government Code, to read:

50077.5. (a) Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure applies to any judicial action or proceeding to validate, attack, review, set aside, void, or annul an ordinance or resolution approved by the voters pursuant to this article on or after January 1, 1986, that levies a special tax, or modifies or amends an existing ordinance or resolution that levies a special tax. If an ordinance or resolution adopted pursuant to this article on or after January 1, 1986, provides for an automatic adjustment in the rate or amount of any special tax approved by the voters pursuant to this article, and the automatic adjustment increases the amount of the tax, any action or proceeding to attack, review, set aside, void, or annul the increase shall be commenced within 60 days of the effective date of the increase.

(b) Any appeal from the final judgment in an action or proceeding brought pursuant to subdivision (a) shall be filed within 30 days after entry of the judgment.

SEC. 11. Section 50078.11 of the Government Code is amended to read:

50078.11. If the legislative body of a county or city finds that the protest is made by holders of property interests proposed to be assessed and who will be obligated to pay the proposed assessment for fire suppression service representing more than 5 percent but less than one-third of the total amount of expected revenue from the assessment, and protests are not withdrawn so as to reduce the same to less than 5 percent, the proposed assessment so protested shall either be submitted to approval by two-thirds of the voters of the county, city, zone, or area of benefit voting on the proposition or abandoned.

If the value of the protests equals one-third or more of the total amount of expected revenue from the assessment, and protests are not withdrawn so as to reduce the same to less than one-third, the proposed assessment so protested shall be abandoned.

SEC. 12. Section 50078.12 of the Government Code is amended to read:

50078.12. If the legislative body of a special district, including a county service area, finds that the protest is made by holders of property interests proposed to be assessed and who will be obligated to pay the proposed assessment for fire suppression service representing more than 5 percent but less than 50 percent of the total amount of expected revenue from the assessment, and protests are not withdrawn so as to reduce the same to less than 5 percent, the proposed assessment so protested shall either be submitted to approval by a majority of the voters of the district, zone, or area of benefit voting on the proposition or abandoned.

If the value of the protests equals 50 percent or more of the total amount of expected revenue from the assessment, and protests are not withdrawn so as to reduce the same to less than 50 percent, the proposed assessment so protested shall be abandoned.

SEC. 13. Section 53979 is added to the Government Code, to read:

53979 (a) Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure applies to any judicial action or proceeding to validate, attack, review, set aside, void, or annul an ordinance approved by the voters on or after January 1, 1986, that levies a special tax, or modifies or amends an existing ordinance that levies a special tax.

(b) Any appeal from the final judgment in an action or proceeding brought pursuant to subdivision (a) shall be filed within 30 days after entry of the judgment.

SEC. 14. Section 54902.5 of the Government Code is amended to read:

54902.5. Notwithstanding Section 6103, the State Board of Equalization shall establish a schedule of fees for filing and processing the statements and maps or plats which are required to be filed with the board pursuant to Section 54902. The schedule shall not include any fee which exceeds the reasonably anticipated cost to the board of performing the work to which the fee relates, or an amount equal to 25 percent of the anticipated total tax revenue that will be collected by the city or district during the first full fiscal year, beginning on July 1, that the boundary changes are effective, as determined by the county auditor, whichever amount is less. The city, district, or executive officer of a local agency formation commission, forwarding the statement to the tax or assessment levying authority for filing pursuant to Section 54900, shall accompany the statement with the necessary fee for transmittal to the board; except that with respect to a newly created city or district, no fee shall be required until such time as the city or district receives its first revenues.

SEC. 14.5. Section 54974 of the Government Code is amended to read:

54974. (a) Whenever an unscheduled vacancy occurs in any board, commission, or committee for which the legislative body has the appointing power, whether due to resignation, death, termination, or other causes, a special vacancy notice shall be posted in the office of the clerk of the local agency, and in other places as directed by the legislative body not earlier than 20 days before or not later than 20 days after the vacancy occurs. Final appointment to the board, commission, or committee shall not be made by the legislative body for at least 10 working days after the posting of the notice in the clerk's office.

(b) Notwithstanding subdivision (a), the legislative body may, if it finds that an emergency exists, fill the unscheduled vacancy immediately. A person appointed to fill the vacancy shall serve only on an acting basis until the final appointment is made pursuant to this section.

SEC. 15. Section 61601.14 of the Government Code is amended to read:

61601.14. (a) Notwithstanding Section 61601 or Section 20681 of the Public Contract Code, whenever the Board of Directors of the Rancho Murieta Community Services District determines by resolution that it is feasible, economically sound, and in the public interest for the district to exercise its power for the purpose of acquiring, constructing, improving, maintaining, or operating television receiving, translating, or distribution facilities, to provide television and television-related services to the district and its inhabitants, to acquire, construct, improve, maintain, or operate burglar and fire alarm facilities, to provide burglar and fire alarm services to the district and its inhabitants, or to authorize the construction and operation of a cable television system to serve the district and its inhabitants by franchise or license, the board may adopt the additional purposes by resolution entered in the minutes, and the powers of the district may thereafter be exercised for these purposes.

(b) In authorizing the construction and operation of a cable television system by franchise or license, the district shall have the same powers as a city or a county under Sections 53066 and 53066.1.

(c) In addition to any other authority granted to districts by this part to finance the facilities described in subdivision (a), the district shall, for the purpose of acquiring, constructing, improving, or financing these facilities, have the power to issue revenue bonds pursuant to Section 61613.1.

(d) At the next general district election, the question of whether the board may continue to exercise the power granted pursuant to subdivision (a) may, with the approval of the board of supervisors, be submitted to the voters of the district. If the proposition is not approved by a majority of the voters of the district voting on the proposition, the authority granted in subdivision (a) shall have no

further force or effect.

SEC. 16. Section 61601.16 is added to the Government Code, to read:

61601.16. In addition to the powers which may be exercised pursuant to Section 61600, whenever the Board of Directors of the Cameron Park Community Services District or the Board of Directors of the Cameron Estates Community Services District determines by resolution, entered in the minutes, that it is feasible, economically sound, and in the public interest, and if a majority of the voters voting on the proposition vote in favor of the adoption of the additional purpose pursuant to Section 61601, the district may enforce the covenants, conditions, and restrictions adopted for each tract within the boundaries of the district, and assume the duties of the architectural control committee for each tract within the boundaries of the district and for other tracts as may be annexed from time to time, for the purpose of maintaining uniform standards of development within the district as adopted in the covenants, conditions, and restrictions. However, the district shall exercise the duties of an architectural control committee for any tract only to the extent authorized by the covenants, conditions, and restrictions applicable to the tract.

The power to carry on that activity may be divested in the same manner as the power was acquired.

For the purposes of this section, "tract" means any parcel of land for which the county has authorized development.

SEC. 17. Section 65850 of the Government Code is amended to read:

65850. The legislative body of any county or city may, pursuant to this chapter, provide for the regulation of any of the following:

(a) The use of buildings, structures, and land as between industry, business, residences, open space including agriculture, recreation, enjoyment of scenic beauty, and use of natural resources, and other purposes.

(b) Signs and billboards.

(c) The location, height, bulk, number of stories, and size of buildings and structures.

(d) The size and use of lots, yards, courts, and other open spaces.

(e) The percentage of a lot which may be occupied by a building or structure.

(f) The intensity of land use.

(g) The establishment of requirements for offstreet parking and loading.

(h) The establishment and maintenance of building setback lines.

(i) The establishment of civic districts around civic centers, public parks, public buildings, or public grounds, and the regulation of those civic districts.

SEC. 18. Section 5473.4 of the Health and Safety Code is amended to read:

5473.4. On or before August 31 of each year following the final

determination upon each charge, the clerk shall file with the auditor a copy of the report prepared pursuant to Section 5473 with a statement endorsed on the report over his or her signature that the report has been finally adopted by the legislative body of the entity and the auditor shall enter the amounts of the charges against the respective lots or parcels of land as they appear on the current assessment roll. Where any of the parcels are outside the boundaries of the entity they shall be added to the assessment roll of the entity for the purpose of collecting the charges. If the property is not described on the roll, the auditor may enter the description on the roll together with the amounts of the charges, as shown in the report.

SEC. 19. Section 13841.13 is added to the Health and Safety Code, to read:

13841.13. If, as a result of reorganization as defined in Section 56068 of the Government Code or detachment as defined in Section 56037 of the Government Code, a majority of the election divisions of a district whose directors are elected from divisions is eliminated simultaneously so that the district board is without a quorum, the supervising authority may do either of the following:

(a) Establish new election divisions meeting the requirements of this chapter and appoint persons to hold the offices thus created until the next election of directors.

(b) Upon the written request of the remaining directors and after a hearing on at least 10 days' notice pursuant to Section 6061 of the Government Code, reorganize the district to provide for a district board composed of three or five elected members and appoint persons to hold the offices thus created until the next election of directors.

SEC. 20. Section 11825 of the Public Utilities Code is amended to read:

11825. Not more than 113 days prior to the election, upon request, the county clerk of the principal county containing the majority of the population of the ward from which the candidate is seeking election shall issue nomination papers and all other forms required for nomination to the office of director.

SEC. 21. Section 11828 of the Public Utilities Code is amended to read:

11828. (a) Except as otherwise provided in this division, the provisions of the Elections Code prescribed for independent nominations shall substantially govern as to the manner of appointment of circulators, the form of nomination papers and other forms, the securing of signatures, the filing of the candidate's declaration of candidacy, and all other things necessary to get the name of the candidate upon the ballot. At the time of issuance of nomination papers, the county clerk shall cause to be entered on the first page of each section of the nomination papers the name of the candidate and the office for which he or she is a candidate. The county clerk shall imprint a stamp on the first page of each section of the nomination papers which reads "Official Filing Form," and

shall affix his or her signature. The county clerk shall keep a list containing the name and address of each candidate, the office for which he or she is a candidate, and the date on which the nomination papers were issued, which list shall be a public record.

(b) Circulators may obtain signatures to the nomination paper of any candidate at any time not more than 113 days nor less than 88 days prior to the election. Each section of the nomination papers shall bear the name of a county and only qualified voters of that county shall sign the section. Nomination papers shall be signed either by 1 percent or by 10 of the registered voters from within the district, whichever is the lesser number, but in no event by more than 20 registered voters from within the district. Nomination papers shall be filed with the county clerk of the principal county containing the majority of the population of the ward from which the candidate is seeking election not more than 113 nor less than 88 days before the date of the election and shall be examined by the county clerk. If nomination papers for an incumbent director are not filed by 5 p.m. on the 88th day before the election, the voters shall have until 5 p.m. on the 83rd day before the election to nominate candidates other than the incumbent for that office. As soon as possible under the circumstances, the county clerk shall determine the number of valid signatures. If there are less than 10 valid signatures, the county clerk shall notify the candidate of that fact, and shall accept additional valid signatures at any time prior to the close of the period for circulating nomination papers. Each candidate, at least 88 days prior to the election, shall file a sufficient candidate's declaration of candidacy with the county clerk with whom he or she filed the nomination papers. The county clerk shall certify the names of all candidates at least 76 days prior to the date of the election so that their names may be placed upon the ballot.

SEC. 22. Section 11850 of the Public Utilities Code is amended to read:

11850. (a) Notwithstanding any other provision of this chapter, in any district formed prior to January 1, 1974, and containing a population of 1,000,000 or more on that date, the number of directors on the district board shall be increased from five to seven as provided in this article.

(b) In any district to which subdivision (a) is applicable and in any district which has owned and operated an electric distribution system for at least eight years and which has a population of 250,000, or more, candidates for the office of director shall be elected by the voters of the ward each represents and shall not be voted upon at large. Nomination papers may be circulated only within the ward from which the candidate is to be elected, and shall be signed either by 1 percent of the voters within the ward or by 10 voters, whichever is the lesser number, but in no event by more than 20 voters within the ward. District circulators shall be residents of the ward in which they seek signatures and may obtain signatures only from registered voters residing within that ward.

SEC. 23. Section 11853 of the Public Utilities Code is amended to read:

11853. The two additional directors elected pursuant to this article shall take office immediately upon the issuance of the certificates of election by the secretary of the district. Thereafter, directors elected pursuant to the additional seats created by this article shall take office on the first day of January next following their election.

SEC. 24. Section 11861 of the Public Utilities Code is amended to read:

11861. The directors elected at the formation election shall hold their respective offices only until the first day of January next following the next general election and until their successors are elected and qualified.

SEC. 25. Section 11863 of the Public Utilities Code is amended to read:

11863. Directors elected at the formation election shall enter upon their official duties immediately upon the filing of the order declaring the result of the election with the Secretary of State, after qualifying according to law. The terms of directors elected after the formation election shall commence on the first day of January next following their election.

SEC. 26. Section 11890 of the Public Utilities Code is amended to read:

11890. The salaries or wages of all officers and employees of a district shall be paid periodically as the board may prescribe. At the expiration of the period fixed for the payment of salaries or wages a payroll shall be prepared, showing all persons employed during the preceding salary period and stating the amount of compensation to which each person is entitled. Payment of the salary or wages of each person specified in the payroll may be made after approval of the payroll by the board or the general manager in accordance with rules adopted by the board.

SEC. 27. Section 11940 of the Public Utilities Code is amended to read:

11940. The accountant shall install and maintain a system of auditing and accounting which shall completely and at all times show the financial condition of the district and provide reasonable assurance that the financial transactions of the district were executed in accordance with the instructions of the board. The accountant shall prepare all instruments necessary for the payment of demands against the district in accordance with the instructions of the board. The accountant shall perform such other duties as the board may require.

SEC. 28. Section 11941 of the Public Utilities Code is amended to read:

11941. The treasurer shall be the custodian of the funds of the district and shall make payments and execute instruments for the payment of demands against the district after determination by the

accountant that the demands are authorized. The treasurer shall keep an account of all receipts and disbursements.

SEC. 29. 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 taxable 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, unless subject to subdivision (d), that the appeal must be filed 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, unless governed by subdivision (d).

(d) For counties of the first class, the notice shall advise the assessee of the right to appeal the supplemental assessment, and that the appeal must be filed within 60 days of the date of the mailing of the tax bill. 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.

(e) 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.

(f) 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. 30. Section 6 of Chapter 52 of the Statutes of 1941 is amended to read:

Sec. 6. Legislation.

(a) The board of directors shall act in legislative matters only by ordinance or resolution. Other actions of the board of directors, unless otherwise provided by this act, may be taken by resolution, motion, or order.

The votes shall be counted upon the passage of all ordinances and resolutions and entered upon the record of the proceedings of the board of directors. Upon the request of any member of the board of directors, the vote on any matter shall be recorded. All members present at any meeting are required to vote.

No ordinance or resolution shall be passed without receiving the votes of at least three members of the board of directors.

(b) Each ordinance shall be headed by a brief title which shall indicate its purpose.

The ordaining clause of all ordinances adopted by the board of directors shall be, "The Board of Directors of Monterey Peninsula Airport District do ordain as follows:". The ordaining clause of all ordinances passed by initiative shall be, "The People of the Monterey Peninsula Airport District do ordain as follows:".

(c) No ordinances shall be passed by the board of directors until at least five days after its introduction, or at any time other than at a regular meeting, or until publication at least once in the official newspaper of the district at least three days before its adoption. When an ordinance is amended before its final adoption, and after its publication, it shall be republished in full as amended at least one day before its adoption as amended, except that, where the amendment is only for the correction of clerical errors or omissions of form, the ordinance need not be given a first reading or a republication as corrected.

(d) Except as otherwise provided by law, no action providing for expenditure of more than five thousand dollars ($5,000), the acquisition or disposition of real property or any interest therein, the levying of any tax or assessment, the granting of any franchise, or the imposing of any penalty, shall be taken except by ordinance.

(e) No ordinance shall be amended or repealed except by ordinance. No ordinance shall be amended by reference to its title only.

All ordinances shall be signed by the chairperson of the board of directors and attested by the secretary.

All ordinances shall take effect 30 days after final passage and approval, except that any ordinance determined and declared by the board of directors to be necessary for the immediate preservation of the public peace, health, or safety, of the district shall take effect immediately upon final passage, and a statement of facts constituting the urgency shall be set forth in the ordinance.

SEC. 31. Section 18 of the Fairfield-Suisun Sewer District Act (Chapter 303, Statutes of 1951) is amended to read:

Sec. 18. In the application to the district of laws, the procedure of which is made applicable to proceedings of the district, the terms used in those laws shall have the following meanings:

(a) "City council," "council, " and "legislative body" mean the board.

(b) "City," "municipality, " and "local agency" mean the district.

(c) "Clerk" and "city clerk" mean the clerk of the district.

(d) "Superintendent of streets," "street superintendent," and "city engineer" mean the engineer of the district or any other person appointed to perform those duties. The person performing those duties shall be called the district engineer.

(e) "Tax collector" means either the county tax collector or another person designated as the tax collector by the board.

(f) "Treasurer" and "city treasurer" means either the County Treasurer of the County of Solano or another person designated as the treasurer by the board.

(g) "Auditor" and "city auditor" means either the County Auditor of the County of Solano or another person designated as the auditor by the board.

SEC. 32. Section 30 of the Fairfield-Suisun Sewer District Act (Chapter 303, Statutes of 1951) is amended to read:

Sec. 30. Each board member shall receive fifty dollars ($50) for each day of his or her actual attendance of the meetings of the board or of committees of the board. No member shall, however, receive more than one hundred dollars ($100) in any calendar month.

SEC. 33. Section 31 of the Fairfield-Suisun Sewer District Act (Chapter 303, Statutes of 1951) is amended to read:

Sec. 31. Each board member shall be reimbursed for actual expenses incurred in the conduct of district business.

SEC. 34. Section 33 of the Fairfield-Suisun Sewer District Act (Chapter 303, Statutes of 1951) is amended to read:

Sec. 33. All district elections other than bond elections shall be conducted in accordance with the election laws applicable to general law cities.

SEC. 35. Section 48 of the Fairfield-Suisun Sewer District Act (Chapter 303, Statutes of 1951) is amended to read:

Sec. 48. (a) Except as otherwise provided in subdivision (b), the district shall not contract for the disposal of any sewage emanating from outside the district except sewage from public buildings or buildings of a public utility subject to regulation by the Public Utilities Commission.

(b) Between January 1, 1986, and January 1, 1989, the district may contract for the disposal of any sewage emanating from any part of that territory designated as agricultural open-space lands north of the Sacramento Northern Railroad right-of-way on Exhibit A to the agreement made and entered into on January 8, 1974, by and between the Solano Irrigation District and the City of Fairfield. The

exhibit and the agreement are hereby incorporated by reference.

(c) Any contract entered into by the district pursuant to subdivision (b) which is in effect on January 1, 1989, may be renegotiated and extended prior to its expiration but the district may not, on or after that date, renegotiate or extend any contract once the contract has terminated or enter into any new contract for the disposal of sewage emanating from the territory described in subdivision (b).

SEC. 36. Section 53 of the Fairfield-Suisun Sewer District Act (Chapter 303, Statutes of 1951) is amended to read:

Sec. 53. The district may issue warrants in payment of district obligations. When not paid for want of funds, the warrants shall be registerable as provided in the Government Code for registration of city warrants when not paid for want of funds. Claims for money or damages against the district are governed by Part 3 (commencing with Section 900) and Part 4 (commencing with Section 940) of Division 3.6 of Title 1 of the Government Code, except as provided therein. Claims not governed by those statutes, other statutes, ordinances, or regulations, and expressly applicable to those claims, shall be prepared and presented to the governing body, and all claims shall be audited and paid, in the same manner and with the same effect as are similar claims against a general law city. All claims shall be free of the limitation of any budget law.

SEC. 37. Section 66 of the Fairfield-Suisun Sewer District Act (Chapter 303, Statutes of 1951) is repealed.

SEC. 38. Section 66 is added to the Fairfield-Suisun Sewer District Act (Chapter 303, Statutes of 1951), to read:

Sec. 66. All contracts for the construction of any unit of work shall be governed by Sections 21202 to 21209, inclusive, contained in Article 3 (commencing with Section 21200) of Chapter 2 of Part 3 of Division 2 of the Public Contract Code.

SEC. 39. Section 90 of the Fairfield-Suisun Sewer District Act (Chapter 303, Statutes of 1951) is amended to read:

Sec. 90. Bonds issued by the district under this article shall be in the denominations determined by the board.

SEC. 40. Section 91 of the Fairfield-Suisun Sewer District Act (Chapter 303, Statutes of 1951) is amended to read:

Sec. 91. The bonds shall be payable in lawful money of the United States at the office of the treasurer and bear interest at the rate determined by the board but not to exceed the amount specified in Section 53531 of the Government Code.

SEC. 41. Section 150 of the Fairfield-Suisun Sewer District Act (Chapter 303, Statutes of 1951) is amended to read:

Sec. 150. There is created in the county treasury of Solano County a fund entitled the "Fairfield-Suisun Sewer District General Fund," and the treasurer shall place and keep the money levied by the board in that fund or in a separate fund maintained in the treasury of either of the cities, as determined by the board.

SEC. 42. Section 5.4 of the Monterey County Flood Control and

Water Conservation District Act (Chapter 699 of the Statutes of 1947), is amended to read:

Sec. 5.4. (a) The district, by ordinance, may fix, on or before August 31 in each calendar year, a water standby or availability charge for any lands to which water is made available by the district, whether the water is actually used or not. The water standby charge shall be used for ongoing maintenance and operation of Zones 2 and 2A of the Flood Control District, as well as for retirement of the revenue bond.

(b) The standby charge shall not exceed ten dollars ($10) per acre per year for each acre of land or ten dollars ($10) per year for a parcel less than one acre.

(c) The ordinance fixing a standby charge shall be adopted by the board only after adoption of a resolution setting forth the particular schedule or schedules of charges proposed to be established by ordinance and after notice and hearing. The adoption of the ordinance shall be subject to referendum pursuant to Section 5200 of the Elections Code.

Notice of the hearing shall be given by publication, pursuant to Section 6066 of the Government Code, in a newspaper of general circulation within the district and by posting 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 ordinance fixing a standby charge may establish schedules varying the charges according to land uses, water uses, and degree of water availability.

(e) The board shall furnish in writing to the county board of supervisors and the county auditor a description of each parcel of land within the district 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.

(f) The board shall direct that, at the time and in the manner required by law for the levying of taxes for county purposes the board of supervisors shall levy, in addition to any other tax it levies, the standby charge in the amounts for the respective parcels fixed by the board.

(g) 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 collected in the same form and manner as county taxes are collected, and shall be paid to the district.

(h) Charges fixed by the district shall be a lien on all property against which the charge is imposed. Liens for the charges shall be of the same force and effect as other liens for taxes, and their collection may be enforced by the same means as provided for the enforcement of liens for state and county taxes.

SEC. 43. The Legislature finds and declares that the Cameron Park Community Services District has a special need for authority to

enforce the covenants, conditions, and restrictions adopted for each tract within the district and to assume the duties of the architectural control committee for each tract within the district and for any other tracts that may be annexed to the district, for the purpose of maintaining uniform standards of development within the district as adopted in the covenants, conditions, and restrictions. It is, therefore, hereby declared that a general law cannot be made applicable and that the addition of Section 61601.13 to the Government Code is necessary for the solution of the problems existing in the Cameron Park Community Services District.

SEC. 44. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act.

SEC. 45. Reimbursement to local agencies and school districts for costs mandated by the state pursuant to Section 14 of this act shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code and, if the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), shall be made from the State Mandates Claims Fund.

CHAPTER 986

An act to add Section 50713 to the Health and Safety Code, relating to housing, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1985 Filed with Secretary of State September 26, 1985]

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

SECTION 1. Section 50713 is added to the Health and Safety Code, to read:

50713. For the purposes of procuring or developing housing or shelter for migratory agricultural workers pursuant to this chapter, the department may execute instruments necessary or convenient for the exercise of its powers and functions, including, but not limited to, pledges, encumbrances, transfers, or assignments of leaseholds of any real or personal property necessary for the procurement or development of the housing or shelter.

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 Department of Housing and Community

Development to execute various instruments relating to leaseholds of property as soon as possible, it is necessary for this act to take effect immediately.

CHAPTER 987

An act to amend Sections 1799.91, 1799.92, 1799.93, and 1799.95 of, and to add Sections 1799.98 and 1799.99 to, the Civil Code, relating to consumer credit contracts.

[Approved by Governor September 25, 1985 Filed with Secretary of State September 26, 1985.]

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

SECTION 1. Section 1799.91 of the Civil Code is amended to read:

1799.91. (a) Unless the persons are married to each other, each creditor who obtains the signature of more than one person on a consumer credit contract shall deliver to each person who does not in fact receive any of the money, property, or services which are the subject matter of the consumer credit contract, prior to that person's becoming obligated on the consumer credit contract, a notice in English and Spanish in at least 10-point type as follows:

NOTICE TO COSIGNER (Traducción en Inglés Se Requiere Por La Ley)

You are being asked to guarantee this debt. Think carefully before you do. If the borrower doesn't pay the debt, you will have to. Be sure you can afford to pay if you have to, and that you want to accept this responsibility.

You may have to pay up to the full amount of the debt if the borrower does not pay. You may also have to pay late fees or collection costs, which increase this amount.

The creditor can collect this debt from you without first trying to collect from the borrower. The creditor can use the same collection methods against you that can be used against the borrower, such as suing you, garnishing your wages, etc. If this debt is ever in default, that fact may become a part of your credit record.

This notice is not the contract that makes you liable for the debt.

AVISO PARA EL FIADOR (Spanish Translation Required By Law)

Se le está pidiendo que garantice esta deuda. Piénselo con cuidado antes de ponerse de acuerdo. Si la persona que ha pedido este préstamo no paga la deuda, usted tendrá que pagarla. Esté seguro de

que usted podrá pagar si sea obligado a pagarla y de que usted desea aceptar la responsabilidad.

Si la persona que ha pedido el préstamo no paga la deuda, es posible que usted tenga que pagar la suma total de la deuda, mas los cargos por tardarse en el pago o el costo de cobranza, lo cual aumenta el total de esta suma.

El acreedor (financiero) puede cobrarle a usted sin, primeramente, tratar de cobrarle al deudor. Los mismos metodos de cobranza que pueden usarse contra el deudor, podran usarse contra usted, tales como presentar una demanda en corte, quitar parte de su sueldo, etc. Si alguna vez no se cumpla con la obligación de pagar esta deuda, se puede incluir esa información en la historia de crédito de usted.

Este aviso no es el contrato mismo en que se le echa a usted la responsabilidad de la deuda.

(b) Whenever notice is required to be given under subdivision (a) and the consumer credit contract is written in a language other than English or Spanish, the creditor shall deliver the notice as required in subdivision (a) in English and, in addition to or in lieu of Spanish, in the language in which the consumer contract is written.

(c) The requirements of subdivisions (a) and (b) do not apply to a creditor offering or extending open-end credit, as defined in Regulation Z, or to joint applicants if all of the following conditions are satisfied:

(1) The application or agreement signed by each applicant clearly and conspicuously discloses that after credit approval each applicant shall have the right to use the open-end credit plan to the extent of any limit set by the creditor and may be liable for all amounts extended under the plan to any joint applicant.

(2) After credit approval, the creditor issues for the use of each applicant any credit device such as a credit card which may be used to obtain credit under the open-end credit plan and sends the credit device to the address specified in the application or otherwise delivers the credit device in a manner specified in the application or agreement signed by each applicant.

(d) "Regulation Z" has the meaning set forth in Section 1802.18.

SEC. 2. Section 1799.92 of the Civil Code is amended to read:

1799.92. (a) If the notice required by Section 1799.91 is included with the text of the consumer credit contract or with any other document establishing the liability of the person, the statement shall appear immediately above the space reserved for that person's signature or above or adjacent to any other notices required by law to be placed immediately above the signature space and shall be contained in a box formed by a heavy line.

(b) If the notice required by Section 1799.91 is not included with the text of the consumer credit contract it shall be on a separate sheet which shall not contain any other text except as is necessary to identify the creditor and consumer credit contract to which the

statement refers and to provide for the date and the person's acknowledgment of receipt.

SEC. 3. Section 1799.93 of the Civil Code is amended to read:

1799.93. (a) The creditor shall not obtain the signature of any person entitled to notice under Section 1799.91 if the consumer credit contract contains blank spaces to be filled in after the person's signature has been obtained.

(b) The creditor shall give each person entitled to notice under Section 1799.91 a copy of the debt instrument and security agreement or deed of trust, if any, evidencing the consumer credit contract and, if separate therefrom, a copy of the notice required by Section 1799.91 and a copy of the document evidencing that person's obligations.

SEC. 4. Section 1799.95 of the Civil Code is amended to read:

1799.95. No action shall be brought, nor shall any security interest be enforced, by any creditor or any assignee of a creditor on any consumer credit contract which fails to comply with this title against any person, however designated, who is entitled to notice under Section 1799.91 and who does not in fact receive any of the money, property or services which are the subject matter of the consumer credit contract.

Nothing herein shall affect the rights of any bona fide purchaser for value of property sold pursuant to the enforcement of a security interest if the purchase was made without notice of any facts constituting a violation of this title.

SEC. 5. Section 1799.98 is added to the Civil Code, to read:

1799.98. Nothing in this title shall be construed to make applicable or affect or operate as a waiver of any of the provisions of Title 13 (commencing with Section 2787) of Part 4 of Division 3 or of Title 8 (commencing with Section 5100) of Part 5 of Division 4. The delivery of notice pursuant to Section 1799.91 is not evidence that the person to whom the notice was delivered entered or did not enter the transaction in the capacity of a surety.

SEC. 6. Section 1799.99 is added to the Civil Code, to read:

(a) This section applies to transactions, other than consumer credit contracts as defined in Section 1799.90, which are subject to the provisions of 16 C.F.R. 444.3, 12 C.F.R. 227.14, or 12 C.F.R. 535.3, whichever is applicable to the creditor.

(b) Unless the persons who are obligated under the transaction are married to each other, no action shall be brought, nor shall any security interest be enforced against any person entitled to receive notice under 16 C.F.R. 444.3, 12 C.F.R. 227.14, or 12 C.F.R. 535.3, whichever is applicable to the creditor, if that person did not receive the notice in the manner prescribed by the applicable regulation and an accurate Spanish translation of the notice.

SEC. 7. Except as provided in subdivision (d), until April 1, 1986, a creditor shall be deemed in compliance with this title if the creditor provides any of the following:

(a) The notice required by Section 1799.91, prior to the

amendment of that section by this act.

(b) The notice provided in Section 444.3 of Title 16 of the Code of Federal Regulations and any Spanish language translation thereof approved by any state agency.

(c) The notice required by Section 1799.91, as amended by this act.

(d) The creditor shall clearly disclose the information required by subdivision (c) of Section 1799.91 in all application forms or agreements printed after January 1, 1986, and in all application forms or agreements used by the creditor after September 30, 1986.

Except as provided in Section 1799.96 and subdivision (d), after April 1, 1986, a creditor shall be deemed in compliance with this title only if the creditor provides the notice required by Section 1799.91, as amended by this act.

CHAPTER 988

An act relating to veterans affairs, and making an appropriation therefor.

[Approved by Governor September 25, 1985 Filed with Secretary of State September 26, 1985]

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

SECTION 1. The Department of Veterans Affairs shall contract with the Counties of Contra Costa, Riverside, and Sonoma for a two-year study by the county veteran service officer in each county of the veterans in the county receiving hospital care, nursing home care, and domiciliary care, as follows:

(a) Each officer shall conduct a survey of every hospital, nursing home care facility, and domiciliary care facility in the county to ascertain whether any veteran is receiving care from that facility. The officer shall transmit complete information on each veteran to the United States Veterans' Administration so that the Veterans' Administration may provide contributions toward the care of that veteran as provided by law.

(b) Each officer shall report on or before each April 1, July 1, October 1, and January 1, on his or her activities under this section to the Assembly Committee on Veterans Affairs, to the Senate Committee on Governmental Organization, to the Department of Finance, and to the Department of Veterans Affairs. The report shall include the number of veterans receiving care in the county and an estimate of the amount of the contributions toward that care required of the Veterans' Administration by law upon proper application therefor. Each officer shall prepare and submit a final report and summary to the committee and the department on or before January 1, 1988.

SEC. 2. The sum of seventy-five thousand dollars ($75,000) is hereby appropriated from the General Fund to the Department of Veterans Affairs for the 1985–86 fiscal year for the purposes of Section 1 of this act.

CHAPTER 989

An act to add Section 7163 to the Business and Professions Code, relating to home improvement contracts.

[Approved by Governor September 25, 1985 Filed with Secretary of State September 26, 1985]

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

SECTION 1. Section 7163 is added to the Business and Professions Code, to read:

7163. (a) No contract for home improvement shall be enforceable against the buyer if the obtaining of a loan for all or a portion of the contract price is a condition precedent to the contract or if the contractor provides financing, or in any manner assists the buyer to obtain a loan or refers the buyer to any person who may loan or arrange a loan for all or a portion of the contract price unless all of the following requirements are satisfied:

(1) The third party, if any, agrees to make the loan.

(2) The buyer agrees to accept the loan or financing.

(3) The buyer does not rescind the loan or financing transaction, within the period prescribed for rescission, pursuant to the federal Truth in Lending Act (15 U.S.C. 1601 et seq.) or Regulation Z, if applicable.

(b) Until the requirements of paragraphs (1), (2), and (3) of subdivision (a) are satisfied, it shall be unlawful for the contractor to do any of the following:

(1) Perform any services or deliver any property. or

(2) Represent in any manner that the contract is enforceable or that the buyer has any obligation thereunder.

Any violation of this subdivision shall render the contract unenforceable.

(c) If the contract is unenforceable pursuant to subdivision (a) or subdivision (b), the contractor shall immediately and without condition return all money, property, and other consideration given by the buyer. If the buyer gave any property as consideration and the contractor does not or cannot return it for whatever reason, the contractor shall immediately return the fair market value of the property or its value as designated in the contract, whichever is greater. Nothing herein shall prohibit a contractor from receiving a downpayment otherwise permitted by law provided the contractor returns the downpayment as herein required if the contract is

unenforceable pursuant to subdivision (a) or (b).

(d) (1) Except as provided in paragraph (2), the buyer may retain without obligation in law or equity any services or property provided pursuant to a contract which is unenforceable pursuant to subdivision (a) or subdivision (b).

(2) If the contractor has delivered any property to the buyer pursuant to a contract which is unenforceable pursuant to subdivision (a) or subdivision (b), the buyer shall make the property available to the contractor for return provided that all of the following requirements are satisfied:

(A) The property can be practically returned to the contractor without causing any damage to the buyer.

(B) The contractor, at the contractor's expense, first returns to the buyer any money, property, and other consideration taken by the contractor provided that the property is returned in the condition that it was in immediately prior to its taking. If applicable, the contractor shall also, at its expense, reinstall any property taken in the manner in which the property had been installed prior to its taking.

(C) The contractor, at the contractor's expense, picks up the property within 60 days of the execution of the contract.

(e) For the purpose of this section, "home improvement" means "home improvement" as defined in Section 7151 and also includes swimming pools subject to Section 7167. Goods are included within the definition notwithstanding whether they are to be attached to real property or to be so affixed to real property as to become a part thereof whether or not severable therefrom.

(f) The rights and remedies provided the buyer under this section are nonexclusive and cumulative to all other rights and remedies under other laws.

(g) Any waiver of the provisions of this section shall be deemed contrary to public policy and shall be void and unenforceable.

CHAPTER 990

An act to amend Sections 2914 and 2960 of the Business and Professions Code, relating to psychologists, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1985 Filed with Secretary of State September 26, 1985]

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

SECTION 1. Section 2914 of the Business and Professions Code is amended to read:

2914. Each applicant for licensure shall comply with all of the following requirements:

(a) Is not subject to denial of licensure under Division 1.5.

(b) Possess an earned doctorate degree (1) in psychology, (2) in education psychology, (3) in education with the field of specialization in counseling psychology or educational psychology, or (4) possess an earned doctorate degree deemed equivalent by the committee in regulations duly adopted under this chapter. This degree or training shall be obtained from an accredited or approved university, college, professional school, or any other educational institution approved by the committee as offering a comparable program in regulations duly adopted under this chapter.

No educational institution shall be denied recognition as an accredited or approved academic institution solely because its program is not accredited by any professional organization of psychologists, and nothing in this chapter or in the administration of this chapter shall require the registration with the committee by educational institutions of their departments of psychology or their doctoral programs in psychology.

(c) Have engaged for at least two years in supervised professional experience under the direction of a licensed psychologist, the specific requirements of which shall be defined by the committee in its regulations, or such suitable alternative supervision as determined by the committee in regulations duly adopted under this chapter, at least one year of which shall be after being awarded the doctorate in psychology. If the supervising licensed psychologist fails to provide verification to the committee of the experience required by this subdivision within 30 days after being so requested by the applicant, the applicant may provide written verification directly to the committee.

If the applicant sends verification directly to the committee, the applicant shall file with the committee a declaration of proof of service, under penalty of perjury, of the request for verification. A copy of the completed verification forms shall be provided to the supervising psychologist and the applicant shall prove to the committee that a copy has been sent to the supervising psychologist by filing a declaration of proof of service under penalty of perjury, and shall file this declaration with the committee when the verification forms are submitted.

Upon receipt by the committee of the applicant's verification and declarations, a rebuttable presumption affecting the burden of producing evidence is created that the supervised, professional experience requirements of this subdivision have been satisfied. The supervising psychologist shall have 20 days from the day the committee receives the verification and declaration to file a rebuttal with the committee.

The authority provided by this subdivision for an applicant to file written verification directly shall apply only to an applicant who has acquired the experience required by this subdivision in the United States.

The committee shall establish qualifications by regulation for

supervising psychologists and shall review and approve applicants for this position on a case-by-case basis.

(d) Take and pass the examination required by Section 2941 unless otherwise exempted by the committee under the provisions of this chapter.

(e) Show by evidence satisfactory to the committee that he or she has completed training in the detection and treatment of alcohol and other chemical substance dependency. This requirement applies only to applicants who matriculate on or after September 1, 1985.

SEC. 2. Section 2960 of the Business and Professions Code is amended to read:

2960. The committee may order the denial of an application for licensure, or issue a license with terms and conditions, or, as to any licensee, order the suspension for a period not exceeding one year, or the revocation of, or the imposition of probationary conditions upon, a licensee for any of the following causes:

(a) Conviction of a crime substantially related to the qualifications, functions or duties of a psychologist or psychological assistant.

(b) Use of any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or dangerous drug, or any alcoholic beverage to an extent or in a manner dangerous to himself or herself, any other person, or the public, or to an extent that such use impairs his or her ability to perform the work of a psychologist with safety to the public.

(c) Fraudulently or neglectfully misrepresenting the type or status of license or registration actually held.

(d) Impersonating another person holding a psychology license or allowing another person to use his or her license or registration.

(e) Using fraud or deception in applying for a license or registration or in passing the examination provided for in this chapter.

(f) Accepting commissions or rebates or other forms of remuneration for referring persons to other professionals.

(g) Violating Section 17500.

(h) Willful, unauthorized communication of information received in professional confidence.

(i) Violating any rule of professional conduct promulgated by the committee and set forth in regulations duly adopted under this chapter.

(j) Being grossly negligent in the practice of his or her profession.

(k) Violating any of the provisions of this chapter or regulations duly adopted thereunder.

(*l*) The aiding or abetting of any person to engage in the unlawful practice of psychology.

(m) The suspension, revocation or imposition of probationary conditions by another state of a license or certificate to practice psychology or as a psychological assistant issued by that state to a person also holding a license or registration issued under this chapter

if the act for which the disciplinary action was taken constitutes a violation of this section.

(n) The commission of any dishonest, corrupt, or fraudulent act or any act of sexual abuse, or sexual relations with a patient, or sexual misconduct which is substantially related to the qualifications, functions or duties of a psychologist or psychological assistant.

(o) Functioning outside of his or her particular field or fields of competence as established by his or her education, training, and experience.

(p) Willful failure to submit, on behalf of an applicant for licensure, verification of supervised experience to the committee.

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

In order to ensure that applicants are not unfairly deprived of licensure credit for required supervised experience in cases where a supervisor does not return verification forms to the Psychology Examining Committee, it is necessary that this act go into immediate effect.

CHAPTER 991

An act to add Article 1 (commencing with Section 7000) to Chapter 1 of Part 5 of Division 1 of the Education Code, relating to public schools.

[Approved by Governor September 25, 1985 Filed with Secretary of State September 26, 1985.]

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

SECTION 1. Article 1 (commencing with Section 7000) is added to Chapter 1 of Part 5 of Division 1 of the Education Code, to read:

Article 1. Health and Welfare Benefits

7000. (a) Notwithstanding Article 1 (commencing with Section 53200) of Chapter 2 of Part 1 of Division 2 of Title 5 of the Government Code, a county superintendent of schools, a school district, or a community college district, which provides health and welfare benefits or dental care benefits for the benefit of its certificated employees, shall permit enrollment in, respectively, the health and welfare benefit plan or dental care benefit plan currently provided for its current certificated employees by any former certificated employee thereof who retired therefrom under any public retirement system and his or her spouse and by any surviving spouse of a former certificated employee thereof who retired

therefrom under any public retirement system.

(b) A county superintendent of schools or district may develop an experience claims rating for the persons specified in subdivision (a) and may, if appropriate, require those persons to pay different rates as a class.

7001. The county superintendent of schools, school district, or community college district shall annually select a one-month period during which persons described by Section 7000 may elect to enroll in, respectively, the health and welfare benefit plan or the dental care benefit plan or change their enrollment from one to another health and welfare plan or dental care benefit plan, respectively.

7002. Any person described by Section 7000 who elects, pursuant to this article, to be covered by, respectively, a health and welfare benefit plan or dental care benefit plan, may be required to pay all premiums, dues, and other charges, including any increases in the rate of premiums or dues for such persons, and all costs incurred by the district or county superintendent of schools in administering this article.

7003. Nothing in this article shall be construed as requiring or permitting the impairment of any contract, board rule, or regulation affecting retired certificated personnel, in existence on the effective date of this article.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution 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 992

An act to amend Sections 6736.1 and 6763 of the Business and Professions Code, relating to professional engineers.

[Approved by Governor September 25, 1985 Filed with Secretary of State September 26, 1985]

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

SECTION 1. Section 6736.1 of the Business and Professions Code is amended to read:

6736.1. (a) On or after July 1, 1984, no person shall use the title, "soil engineer," unless he or she is a registered civil engineer in this state and he or she has been found qualified as a soil engineer according to the rules and regulations established therefor by the board. Any registered civil engineer using the title "soil engineer" on or before July 1, 1984, may, for a period of two years, continue to use the title "soil engineer." On and after July 1, 1986, no person may use the title "soil engineer," "soils engineer," or "geotechnical

engineer," unless he or she files an application to use the appropriate title with the board and the board determines the applicant is qualified to use the requested title.

(b) The board shall establish qualifications and standards to use the title "soil engineer," "soils engineer," or "geotechnical engineer." However, each applicant shall demonstrate a minimum of four years qualifying experience beyond that required for registration as a civil engineer, and shall pass the examination specified by the board, unless the applicant is exempted pursuant to subdivision (d).

(c) In determining the qualifications and standards for qualification of individual applicants to use the title "soil engineer," "soils engineer," and "geotechnical engineer" the board shall utilize a Technical Advisory Committee appointed by the board. The Technical Advisory Committee shall be comprised of soil engineers, soils engineers, and geotechnical engineers, and at least one registered civil engineer who does not hold a soils authority.

(d) If any registered civil engineer furnishes satisfactory evidence of at least six years qualifying experience in soil engineering, soils engineering, or geotechnical engineering, as determined by the board, the board shall authorize that engineer to use the title "soil engineer," "soils engineer," or "geotechnical engineer" without an examination. This subdivision shall continue in effect only until December 31, 1987.

(e) For purposes of this section, "qualifying experience" means proof of responsible charge of soil engineering projects in at least 50 percent of the major areas of soil engineering, as determined by the board.

(f) Nothing contained in this chapter requires existing references to "soil engineering," "soils engineering," "geotechnical engineering," "soil engineer," "soils engineer," or "geotechnical engineer," in local agency ordinances, building codes, regulations, or policies, to mean that those activities or persons must be registered or authorized to use the relevant title or authority.

SEC. 2. Section 6763 of the Business and Professions Code is amended to read:

6763. Application for authority to use the title "structural engineer," "soil engineer," "soils engineer," or "geotechnical engineer" shall be made to the board on forms prescribed by it and shall be accompanied by the application fee fixed by this chapter.

An applicant for authority to use the title "structural engineer," "soil engineer," "soils engineer," or "geotechnical engineer" who has passed the examination prescribed by the board, or an applicant for authority to use the title "soil engineer," "soils engineer," or "geotechnical engineer" whose application is submitted prior to July 1, 1986, and who has otherwise demonstrated that he or she is qualified, shall have a certificate of authority issued to him or her.

For purposes of this chapter, an authority to use the title "structural engineer," "soil engineer," "soils engineer," or

"geotechnical engineer" is an identification of competence and specialization in a subspecialty of civil engineering and necessitates education or experience in addition to that required for registration as a civil engineer.

SEC. 3. No reimbursement is required by this act pursuant to 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 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 add Section 20212 and 20213 to the Government Code, relating to state retirement systems.

[Approved by Governor September 25, 1985 Filed with Secretary of State September 26, 1985.]

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

SECTION 1. Section 20212 is added to the Government Code, to read:

20212. Notwithstanding any other provision of law, any person entitled to the receipt of benefits from any state retirement system may authorize the payment of the benefits to be directly deposited by electronic fund transfer into the person's account at the financial institution of his or her choice under a program for direct deposit by electronic transfer established pursuant to Section 20213. The direct deposit shall discharge the state agency's obligation in respect to that payment.

SEC. 2. Section 20213 is added to the Government Code, to read:

20213. The Controller may make an agreement with one or more financial institutions participating in the Automated Clearing House pursuant to the local rules, and may establish a program, for the direct deposit by electronic fund transfer of the benefits, after any withholding required by law and authorized deductions, of any person entitled to the receipt of benefits from any state retirement system who authorizes the direct deposit thereof by electronic fund transfer into the person's account at the financial institution of his or her choice.

If the Controller does not make an agreement establishing a program for direct deposit by electronic fund transfer of the retirement benefits, the administrative body of any state retirement system may make such an agreement.

SEC. 3. This act shall become operative on January 1, 1987.

CHAPTER 994

An act to amend Sections 4514 and 5328.15 of the Welfare and Institutions Code, relating to health records.

[Approved by Governor September 25, 1985 Filed with Secretary of State September 26, 1985]

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

SECTION 1. Section 4514 of the Welfare and Institutions Code is amended to read:

4514. All information and records obtained in the course of providing intake, assessment, and services under Division 4.1 (commencing with Section 4400), Division 4.5 (commencing with Section 4500), Division 6 (commencing with Section 6000), or Division 7 (commencing with Section 7100) to persons with developmental disabilities shall be confidential. Information and records obtained in the course of providing similar services to either voluntary or involuntary recipients prior to 1969 shall also be confidential. Information and records shall be disclosed only in any of the following cases:

(a) In communications between qualified professional persons in the provision of intake, assessment, and services or appropriate referrals, or in the course of conservatorship proceedings. The consent of the person with a developmental disability, or his or her guardian or conservator shall be obtained before information or records may be disclosed by a professional employed by a facility to a professional not employed by the facility who does not have the medical responsibility for the care of a person with a developmental disability.

(b) When the person with a developmental disability, with the approval of the physician, licensed psychologist, or social worker with a masters degree in social work, who is in charge of the person, designates individuals to whom information or records may be released, except that nothing in this article shall be construed to compel a physician, psychologist, social worker, nurse, attorney, or other professional to reveal information which has been given to him or her in confidence by a family member of the person.

(c) To the extent necessary for a claim, or for a claim to be made on behalf of a person with a developmental disability for aid, insurance, or medical assistance to which he or she may be entitled.

(d) If the person with a developmental disability is a minor, ward, or conservatee, and his or her parent, guardian, or conservator designates, in writing, persons to whom records or information may be disclosed, except that nothing in this article shall be construed to compel a physician, psychologist, social worker, nurse, attorney, or other professional to reveal information which has been given to him or her in confidence by a family member of the person.

(e) For research, provided that the Director of Developmental Services designates by regulation rules for the conduct of research and requires the research to be first reviewed by the appropriate institutional review board or boards. Such rules shall include, but need not be limited to, the requirement that all researchers shall sign an oath of confidentiality as follows:

_____

Date

As a condition of doing research concerning persons with developmental disabilities who have received services from _____ (fill in the facility, agency or person), I, _____, agree to obtain the prior informed consent of such persons who have received services to the maximum degree possible as determined by the appropriate institutional review board or boards for protection of human subjects reviewing my research, or such person's parent, guardian, or conservator, and I further agree not to divulge any information obtained in the course of such research to unauthorized persons, and not to publish or otherwise make public any information regarding persons who have received services such that the person who received services is identifiable.

I recognize that the unauthorized release of confidential information may make me subject to a civil action under provisions of the Welfare and Institutions Code.

_____

Signed

(f) To the courts, as necessary to the administration of justice.

(g) To governmental law enforcement agencies as needed for the protection of federal and state elective constitutional officers and their families.

(h) To the Senate Rules Committee or the Assembly Rules Committee for the purposes of legislative investigation authorized by such committee.

(i) If the person with a developmental disability who applies for life or disability insurance designates in writing the insurer to which records or information may be disclosed.

(j) To the attorney for the person with a developmental disability in any and all proceedings upon presentation of a release of information signed by the person, except that when the person is unable to sign such release, the staff of the facility, upon satisfying itself of the identity of the attorney, and of the fact that the attorney does represent the interests of the person, may release all information and records relating to the person except that nothing in this article shall be construed to compel a physician, psychologist, social worker, nurse, attorney, or other professional to reveal information which has been given to him or her in confidence by a

family member of the person.

(k) Upon written agreement by a person with a developmental disability previously confined in or otherwise treated by a facility, the professional in charge of the facility or his or her designee may release any information, except information which has been given in confidence by members of the family of the person with developmental disabilities, requested by a probation officer charged with the evaluation of the person after his or her conviction of a crime if the professional person in charge of the facility determines that such information is relevant to the evaluation. Such agreement shall only be operative until sentence is passed on the crime of which the person was convicted. The confidential information released pursuant to this subdivision shall be transmitted to the court separately from the probation report and shall not be placed in the probation report. The confidential information shall remain confidential except for purposes of sentencing. After sentencing, the confidential information shall be sealed.

(*l*) Between persons who are trained and qualified to serve on "multidisciplinary personnel" teams pursuant to subdivision (d) of Section 18951. The information and records sought to be disclosed shall be relevant to the prevention, identification, management, or treatment of an abused child and his or her parents pursuant to Chapter 11 (commencing with Section 18950) of Part 6 of Division 9.

(m) When a person with a developmental disability dies from any cause, natural or otherwise, while hospitalized in a state hospital for the developmentally disabled the State Department of Developmental Services, the physician in charge of the patient, or the professional in charge of the facility or his or her designee, shall release information and records to the coroner. The State Department of Developmental Services, the physician in charge of the state hospital resident, or the professional in charge of the facility or his or her designee, shall not release any notes, summaries, transcripts, tapes, or records of conversations between the resident and health professional personnel of the hospital relating to the personal life of the resident which is not related to the diagnosis and treatment of the resident's physical condition. Any information released to the coroner pursuant to this section shall remain confidential and shall be sealed and shall not be made part of the public record.

(n) To authorized licensing personnel who are employed by, or who are authorized representatives of, the State Department of Health Services, and who are licensed or registered health professionals, and to authorized legal staff or special investigators who are peace officers who are employed by, or who are authorized representatives of, the State Department of Social Services, as necessary to the performance of their duties to inspect, license, and investigate health facilities and community care facilities, and to ensure that the standards of care and services provided in such

facilities are adequate and appropriate and to ascertain compliance with the rules and regulations to which the facility is subject. The confidential information shall remain confidential except for purposes of inspection, licensing, or investigation pursuant to Chapter 2 (commencing with Section 1250) of, and Chapter 3 (commencing with Section 1500) of, Division 2 of the Health and Safety Code, or a criminal, civil, or administrative proceeding in relation thereto. The confidential information may be used by the State Department of Health Services or the State Department of Social Services in a criminal, civil, or administrative proceeding. The confidential information shall be available only to the judge or hearing officer and to the parties to the case. Names which are confidential shall be listed in attachments separate to the general pleadings. The confidential information shall be sealed after the conclusion of the criminal, civil, or administrative hearings, and shall not subsequently be released except in accordance with this subdivision. If the confidential information does not result in a criminal, civil, or administrative proceeding, it shall be sealed after the State Department of Health Services or the State Department of Social Services decides that no further action will be taken in the matter of suspected licensing violations. Except as otherwise provided in this subdivision, confidential information in the possession of the State Department of Health Services or the State Department of Social Services shall not contain the name of the person with a developmental disability.

(o) To any board which licenses and certifies professionals in the fields of mental health and developmental disabilities pursuant to state law, when the Director of Developmental Services has reasonable cause to believe that there has occurred a violation of any provision of law subject to the jurisdiction of such board and the records are relevant to such violation. Such information shall be sealed after a decision is reached in the matter of the suspected violation, and shall not subsequently be released except in accordance with this subdivision. Confidential information in the possession of the board shall not contain the name of the person with a developmental disability.

(p) To governmental law enforcement agencies by the physician in charge of the person with a developmental disability, or the professional in charge of the facility or his or her designee, when he or she has probable cause to believe that a person with a developmental disability while hospitalized has committed, or has been the victim of, murder, manslaughter, mayhem, kidnapping, robbery, assault with the intent to commit a felony, arson, extortion, rape, forcible sodomy, forcible oral copulation, assault or battery, or unlawful possession of a weapon, as provided in Section 12020 of the Penal Code.

This subdivision shall be limited solely to information directly relating to the factual circumstances of the commission of the enumerated offenses and shall not include any information relating

to the mental state of the patient or the circumstances of his or her voluntary or involuntary admission, commitment, or treatment.

This subdivision shall not be construed as an exception to, or in any other way affecting, the provisions of Article 7 (commencing with Section 1010) of Chapter 4 of Division 8 of the Evidence Code.

(q) To the Youth Authority and Adult Correctional Agency or any component thereof, as necessary to the administration of justice.

SEC. 1.5. Section 4514 of the Welfare and Institutions Code is amended to read:

4514. All information and records obtained in the course of providing intake, assessment, and services under Division 4.1 (commencing with Section 4400), Division 4.5 (commencing with Section 4500), Division 6 (commencing with Section 6000), or Division 7 (commencing with Section 7100) to persons with developmental disabilities shall be confidential. Information and records obtained in the course of providing similar services to either voluntary or involuntary recipients prior to 1969 shall also be confidential. Information and records shall be disclosed only in any of the following cases:

(a) In communications between qualified professional persons in the provision of intake, assessment, and services or appropriate referrals, or in the course of conservatorship proceedings. The consent of the person with a developmental disability, or his or her guardian or conservator shall be obtained before information or records may be disclosed by a professional employed by a facility to a professional not employed by the facility who does not have the medical responsibility for the care of a person with a developmental disability.

(b) When the person with a developmental disability, with the approval of the physician, licensed psychologist, or social worker with a masters degree in social work, who is in charge of the person, designates individuals to whom information or records may be released, except that nothing in this article shall be construed to compel a physician, psychologist, social worker, nurse, attorney, or other professional to reveal information which has been given to him or her in confidence by a family member of the person.

(c) To the extent necessary for a claim, or for a claim to be made on behalf of a person with a developmental disability for aid, insurance, or medical assistance to which he or she may be entitled.

(d) If the person with a developmental disability is a minor, ward, or conservatee, and his or her parent, guardian, or conservator designates, in writing, persons to whom records or information may be disclosed, except that nothing in this article shall be construed to compel a physician, psychologist, social worker, nurse, attorney, or other professional to reveal information which has been given to him or her in confidence by a family member of the person.

(e) For research, provided that the Director of Developmental Services designates by regulation rules for the conduct of research and requires the research to be first reviewed by the appropriate

institutional review board or boards. Such rules shall include, but need not be limited to, the requirement that all researchers shall sign an oath of confidentiality as follows:

_____
Date

As a condition of doing research concerning persons with developmental disabilities who have received services from _____ (fill in the facility, agency or person), I, _____, agree to obtain the prior informed consent of such persons who have received services to the maximum degree possible as determined by the appropriate institutional review board or boards for protection of human subjects reviewing my research, or such person's parent, guardian, or conservator, and I further agree not to divulge any information obtained in the course of such research to unauthorized persons, and not to publish or otherwise make public any information regarding persons who have received services such that the person who received services is identifiable.

I recognize that the unauthorized release of confidential information may make me subject to a civil action under provisions of the Welfare and Institutions Code.

_____
Signed

(f) To the courts, as necessary to the administration of justice.

(g) To governmental law enforcement agencies as needed for the protection of federal and state elective constitutional officers and their families.

(h) To the Senate Rules Committee or the Assembly Rules Committee for the purposes of legislative investigation authorized by such committee.

(i) If the person with a developmental disability who applies for life or disability insurance designates in writing the insurer to which records or information may be disclosed.

(j) To the attorney for the person with a developmental disability in any and all proceedings upon presentation of a release of information signed by the person, except that when the person is unable to sign such release, the staff of the facility, upon satisfying itself of the identity of the attorney, and of the fact that the attorney does represent the interests of the person, may release all information and records relating to the person except that nothing in this article shall be construed to compel a physician, psychologist, social worker, nurse, attorney, or other professional to reveal information which has been given to him or her in confidence by a family member of the person.

(k) Upon written agreement by a person with a developmental disability previously confined in or otherwise treated by a facility, the

professional in charge of the facility or his or her designee may release any information, except information which has been given in confidence by members of the family of the person with developmental disabilities, requested by a probation officer charged with the evaluation of the person after his or her conviction of a crime if the professional person in charge of the facility determines that such information is relevant to the evaluation. Such agreement shall only be operative until sentence is passed on the crime of which the person was convicted. The confidential information released pursuant to this subdivision shall be transmitted to the court separately from the probation report and shall not be placed in the probation report. The confidential information shall remain confidential except for purposes of sentencing. After sentencing, the confidential information shall be sealed.

(*l*) Between persons who are trained and qualified to serve on "multidisciplinary personnel" teams pursuant to subdivision (d) of Section 18951. The information and records sought to be disclosed shall be relevant to the prevention, identification, management, or treatment of an abused child and his or her parents pursuant to Chapter 11 (commencing with Section 18950) of Part 6 of Division 9.

(m) When a person with a developmental disability dies from any cause, natural or otherwise, while hospitalized in a state hospital for the developmentally disabled the State Department of Developmental Services, the physician in charge of the patient, or the professional in charge of the facility or his or her designee, shall release information and records to the coroner. The State Department of Developmental Services, the physician in charge of the state hospital resident, or the professional in charge of the facility or his or her designee, shall not release any notes, summaries, transcripts, tapes, or records of conversations between the resident and health professional personnel of the hospital relating to the personal life of the resident which is not related to the diagnosis and treatment of the resident's physical condition. Any information released to the coroner pursuant to this section shall remain confidential and shall be sealed and shall not be made part of the public record.

(n) To authorized licensing personnel who are employed by, or who are authorized representatives of, the State Department of Health Services, and who are licensed or registered health professionals, and to authorized legal staff or special investigators who are peace officers who are employed by, or who are authorized representatives of, the State Department of Social Services, as necessary to the performance of their duties to inspect, license, and investigate health facilities and community care facilities, and to ensure that the standards of care and services provided in such facilities are adequate and appropriate and to ascertain compliance with the rules and regulations to which the facility is subject. The confidential information shall remain confidential except for

purposes of inspection, licensing, or investigation pursuant to Chapter 2 (commencing with Section 1250) of, and Chapter 3 (commencing with Section 1500) of, Division 2 of the Health and Safety Code, or a criminal, civil, or administrative proceeding in relation thereto. The confidential information may be used by the State Department of Health Services or the State Department of Social Services in a criminal, civil, or administrative proceeding. The confidential information shall be available only to the judge or hearing officer and to the parties to the case. Names which are confidential shall be listed in attachments separate to the general pleadings. The confidential information shall be sealed after the conclusion of the criminal, civil, or administrative hearings, and shall not subsequently be released except in accordance with this subdivision. If the confidential information does not result in a criminal, civil, or administrative proceeding, it shall be sealed after the State Department of Health Services or the State Department of Social Services decides that no further action will be taken in the matter of suspected licensing violations. Except as otherwise provided in this subdivision, confidential information in the possession of the State Department of Health Services or the State Department of Social Services shall not contain the name of the person with a developmental disability.

(o) To any board which licenses and certifies professionals in the fields of mental health and developmental disabilities pursuant to state law, when the Director of Developmental Services has reasonable cause to believe that there has occurred a violation of any provision of law subject to the jurisdiction of such board and the records are relevant to such violation. Such information shall be sealed after a decision is reached in the matter of the suspected violation, and shall not subsequently be released except in accordance with this subdivision. Confidential information in the possession of the board shall not contain the name of the person with a developmental disability.

(p) To governmental law enforcement agencies by the physician in charge of the person with a developmental disability, or the professional in charge of the facility or his or her designee, when he or she has probable cause to believe that a person with a developmental disability while hospitalized has committed, or has been the victim of, murder, manslaughter, mayhem, kidnapping, robbery, assault with the intent to commit a felony, arson, extortion, rape, forcible sodomy, forcible oral copulation, assault or battery, or unlawful possession of a weapon, as provided in Section 12020 of the Penal Code.

This subdivision shall be limited solely to information directly relating to the factual circumstances of the commission of the enumerated offenses and shall not include any information relating to the mental state of the patient or the circumstances of his or her voluntary or involuntary admission, commitment, or treatment.

This subdivision shall not be construed as an exception to, or in any

other way affecting, the provisions of Article 7 (commencing with Section 1010) of Chapter 4 of Division 8 of the Evidence Code.

(q) To the Youth Authority and Adult Correctional Agency or any component thereof, as necessary to the administration of justice.

(r) To the agency established in this state to fulfill the requirements and assurances of Section 142 of the federal Developmental Disabilities Act of 1984 for a system to protect and advocate the rights of persons with developmental disabilities, as defined in Section 102(7) of the federal act. The agency shall have access to the records of a person with developmental disabilities who resides in a facility for persons with developmental disabilities when both of the following conditions apply:

(1) The agency has received a complaint from, or on behalf of, the person and the person consents to the disclosure to the extent of his or her capabilities.

(2) The person does not have a parent, guardian, or conservator, or the state or the designee of the state is the person's guardian or conservator.

SEC. 2. Section 5328.15 of the Welfare and Institutions Code is amended to read:

5328.15. All information and records obtained in the course of providing services under Division 5 (commencing with Section 5000), Division 6 (commencing with Section 6000), or Division 7 (commencing with Section 7000), to either voluntary or involuntary recipients of services shall be confidential. Information and records may be disclosed, however, notwithstanding any other provision of law, as follows:

(a) To authorized licensing personnel who are employed by, or who are authorized representatives of, the State Department of Health Services, and who are licensed or registered health professionals, and to authorized legal staff or special investigators who are peace officers who are employed by, or who are authorized representatives of the State Department of Social Services, as necessary to the performance of their duties to inspect, license, and investigate health facilities and community care facilities and to ensure that the standards of care and services provided in such facilities are adequate and appropriate and to ascertain compliance with the rules and regulations to which the facility is subject. The confidential information shall remain confidential except for purposes of inspection, licensing, or investigation pursuant to Chapter 2 (commencing with Section 1250) of, and Chapter 3 (commencing with Section 1500) of, Division 2 of the Health and Safety Code, or a criminal, civil, or administrative proceeding in relation thereto. The confidential information may be used by the State Department of Health Services or the State Department of Social Services in a criminal, civil, or administrative proceeding. The confidential information shall be available only to the judge or hearing officer and to the parties to the case. Names which are confidential shall be listed in attachments separate to the general

pleadings. The confidential information shall be sealed after the conclusion of the criminal, civil, or administrative hearings, and shall not subsequently be released except in accordance with this subdivision. If the confidential information does not result in a criminal, civil, or administrative proceeding, it shall be sealed after the State Department of Health Services or the State Department of Social Services decides that no further action will be taken in the matter of suspected licensing violations. Except as otherwise provided in this subdivision, confidential information in the possession of the State Department of Health Services or the State Department of Social Services shall not contain the name of the patient.

(b) To any board which licenses and certifies professionals in the fields of mental health pursuant to state law, when the Director of Mental Health has reasonable cause to believe that there has occurred a violation of any provision of law subject to the jurisdiction of that board and the records are relevant to the violation. This information shall be sealed after a decision is reached in the matter of the suspected violation, and shall not subsequently be released except in accordance with this subdivision. Confidential information in the possession of the board shall not contain the name of the patient.

SEC. 3. Section 1.5 of this bill incorporates amendments to Section 4514 of the Welfare and Institutions Code proposed by both this bill and SB 1088. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1986, (2) each bill amends Section 4514 of the Welfare and Institutions Code, and (3) this bill is enacted after SB 1088, in which case Section 1 of this bill shall not become operative.

CHAPTER 995

An act to amend Section 66498.7 of the Government Code, relating to subdivisions.

[Approved by Governor September 25, 1985 Filed with Secretary of State September 26, 1985.]

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

SECTION 1. Section 66498.7 of the Government Code is amended to read:

66498.7. (a) Until December 31, 1987, this chapter shall apply only to residential developments.

(b) On and after January 1, 1988, an ordinance adopted pursuant to subdivision (g) of Section 66452.6 may differentiate between residential and nonresidential developments in prescribing the initial time period after which the rights conferred by a vesting

tentative map shall expire. In no event, however, shall that period be less for residential developments than for nonresidential developments.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution 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 996

An act to add Article 2.7 (commencing with Section 65870) to Chapter 4 of Division 1 of Title 7 of the Government Code, relating to real property.

[Approved by Governor September 25, 1985 Filed with Secretary of State September 26, 1985]

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

SECTION 1. Article 2.7 (commencing with Section 65870) is added to Chapter 4 of Division 1 of Title 7 of the Government Code, to read:

Article 2.7. Covenants for Easement

65870. Any city or county may adopt an ordinance for the imposition of covenants pursuant to this article.

65871. (a) In addition to any other method for the creation of an easement, an easement may be created pursuant to an ordinance adopted implementing this article, by a recorded covenant of easement made by an owner of real property to the city or county. An easement created pursuant to this article may be for parking, ingress, egress, emergency access, light and air access, landscaping, or open-space purposes.

(b) At the time of recording of the covenant of easement, all the real property benefited or burdened by the covenant shall be in common ownership. The covenant shall be effective when recorded and shall act as an easement pursuant to Chapter 3 (commencing with Section 801) of Title 2 of Part 2 of Division 2 of the Civil Code, except that it shall not merge into any other interest in the real property. Section 1104 of the Civil Code shall be applicable to conveyance of the affected real property.

(c) A covenant of easement recorded pursuant to this section shall describe the real property to be subject to the easement and the real property to be benefited thereby. The covenant of easement shall also identify the approval, permit, or designation granted which relied upon or required the covenant.

(d) A covenant executed pursuant to this section shall be enforceable by the successors in interest to the real property benefited by the covenant.

65873. The covenant of easement shall be recorded in the county where all or a portion of the restricted property is located and shall contain a legal description of the real property and be executed by the owner of the real property. From and after the time of its recordation, the covenant shall impart notice thereof to all persons to the extent afforded by the recording laws of this state. Upon recordation, the burdens of the covenant shall be binding upon, and the benefits of the covenant shall inure to, all successors in interest to the real property.

65874. (a) The ordinance adopted pursuant to Section 65870 shall provide a procedure for the release of the covenant. The procedure shall require a public hearing by the agency designated by the ordinance for that purpose. The hearing shall be held at the request of any person whether or not that person has title to the real property.

(b) Upon a determination that the restriction of the property is no longer necessary to achieve the land use goals of the city or county, a release shall be recorded by the city or county in the county where the restricted property is located.

(c) The ordinance may provide for the imposition of fees to recover the reasonable costs of processing the release from those persons requesting the release pursuant to this section.

65875. Nothing in this article shall create in any person other than the city or county and the owner of the real property burdened or benefited by the covenant standing to enforce or to challenge the covenant or any amendment thereto or release therefrom.

CHAPTER 997

An act to amend Section 48321 of, and to add Section 48321.5 to, the Education Code, relating to school attendance.

[Approved by Governor September 25, 1985 Filed with Secretary of State September 26, 1985.]

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

SECTION 1. Section 48321 of the Education Code is amended to read:

48321. (a) A county school attendance review board may be established in each county. The county school attendance review board, if established, shall include, but need not be limited to, a parent and representatives of (1) school districts, (2) the county probation department, (3) the county welfare department, (4) the county superintendent of schools, (5) law enforcement agencies, (6)

community-based youth service centers, and (7) school guidance personnel. The school district representatives on the county school attendance review board shall be nominated by the governing boards of school districts and shall be appointed by the county superintendent of schools. All other persons and group representatives shall be appointed by the county board of education.

Where a county school attendance review board exists, the county superintendent of schools shall, at the beginning of each school year, convene a meeting of the county school attendance review board for the purpose of adopting plans to promote interagency and community cooperation and to reduce the duplication of services provided to youth who have serious school attendance and behavior problems.

(b) Local school attendance review boards may include, but need not be limited to, a parent and representatives of (1) school districts, (2) the county probation department, (3) the county welfare department, and (4) the county superintendent of schools, (5) law enforcement agencies, (6) community-based youth service centers, and (7) school guidance personnel. Other persons or group representatives shall be appointed by the county board of education.

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

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

(e) In any county in which there is no county school attendance review board, a school district governing board may elect to establish a local school attendance review board, which shall operate in the same manner and have the same authority as a county school attendance review board.

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

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

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

SEC. 2. Section 48321.5 is added to the Education Code, to read:

48321.5. In every case in which a minor pupil has been referred to it under Section 48263, each county school attendance review board may, for the purpose of making a proper disposition of the

referral, request the juvenile court having jurisdiction to issue subpoenas requiring the attendance of all of the following:

(1) The minor.

(2) The minor's parents, guardians, or other person having control of the minor.

(3) The school authority referring the minor.

(4) Any other person the county school attendance review board may require as a witness in the matter.

The juvenile court may issue subpoenas requiring the attendance of witnesses or the production of pertinent or material written materials, subject to Section 1985 of the Code of Civil Procedure.

The juvenile court shall not have jurisdiction to order detention in any secure facility or other confinement for failure to comply with a subpoena issued pursuant to this section.

SEC. 3. On or before December 31, 1987, the State Department of Education shall conduct an evaluation and shall submit a report to the Legislature regarding the effectiveness of county school attendance review boards in dealing with pupils with severe school attendance or behavior problems. The evaluation and report, to the extent feasible, shall also address the effectiveness of alternative programs for dealing with school attendance problems and shall compare their effectiveness to that of county school attendance review boards.

SEC. 4. Reimbursement to local agencies and school districts for costs mandated by the state pursuant to this act shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code and, if the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), shall be made from the State Mandates Claims Fund. However, only the single annual meeting of a county school attendance review board required pursuant to subdivision (a) of Section 48321 of the Education Code shall be reimbursable pursuant to this section. The costs of any other optional meetings or activities of a county school attendance review board shall be borne by the county superintendent of schools.

CHAPTER 998

An act to amend Section 607f of the Civil Code, and to amend Section 3060 of the Government Code, relating to humane officers.

[Approved by Governor September 25, 1985 Filed with Secretary of State September 26, 1985.]

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

SECTION 1. Section 607f of the Civil Code is amended to read:

607f. (a) Any corporation incorporated for the purpose of the prevention of cruelty to animals may by resolution of its board of directors or trustees duly entered on its minutes appoint any number of its members, who shall be citizens of the State of California, as humane officers. Each appointment of a humane officer shall be by separate resolution. The resolution shall state the full name and place of residence and the business or occupation of the person so appointed and the fact that he or she is a citizen of the State of California and shall also designate the number of the badge to be allotted to the officer.

(b) The society shall recommend any appointee to the judge of the superior court in and for the county or city and county in which the appointee resides, and shall deliver to the judge a copy of the resolution appointing the person, duly certified to be correct by the president and secretary of the corporation and attested by its seal, together with the fingerprints of the appointee taken on standard 8 x 8-inch cards, and proof of the society's proper incorporation in compliance with Part 9 (commencing with Section 10400) of Division 2 of the Corporations Code.

(c) The judge shall send a copy of the resolution, together with the fingerprints of the appointee, to the Department of Justice, which shall thereupon submit to the judge, in writing, a report of the record in its possession, if any, of the appointee. If the Department of Justice has no record of the appointee, it shall so report to the judge in writing.

(d) Upon receipt of the report the judge shall review the matter of the appointee's qualifications and fitness to act as a humane officer and, if he or she reaffirms the appointment, shall so state on a court order confirming the appointment. The appointee shall thereupon file a certified copy of the reviewed court order in the office of the county clerk of said county or city and county and shall at the same time take and subscribe the oath of office prescribed for constables or other peace officers.

(e) The county clerk shall thereupon immediately enter in a book to be kept in his or her office and designated "Record of Humane Officers" the name of the officer, the number of his or her badge, the name of the judge appointing him or her and the date of the filing. At the time of the filing the county clerk shall collect from the officer a fee of five dollars ($5), which shall be in full for all services to be performed by the county clerk under the provisions of this section.

(f) All appointments of humane officers shall automatically expire if the society disbands or legally dissolves. In addition, all appointments of humane officers shall automatically expire within three years from the date on which the certified copy of the court order was filed with the county clerk. Officers whose appointments are about to expire may only be reappointed in the same manner as hereinbefore provided for new appointments.

(g) The corporation appointing an officer may revoke an

appointment at any time by filing in the office of the county clerk in which the appointment of the officer is recorded a copy of the revocation in writing under the letterhead of such corporation and duly certified by its executive officer. Upon the filing the county clerk shall enter the fact of the revocation and the date of the filing thereof opposite the name of the officer in the record of humane officers.

(h) On and after January 1, 1986, all humane officers, except those who have been a humane officer for 9 years or more, shall, within one year of appointment or reappointment, provide evidence satisfactory to the society that he or she has successfully completed courses of training, either provided or approved by the society, in the following subjects:

(1) At least 12 hours of a course of training in animal care, the focus of which shall be the identification of disease, injury, and neglect in domestic animals and livestock.

(2) A course of training in the state humane laws.

(3) A course of training as prescribed by the Commission on Peace Officer Standards and Training, as specified in Section 832 of the Penal Code.

The requirement to complete a specified training course mandated by this section shall apply only when a training course is available at a place not more than 100 miles from the office of the humane society.

(i) Humane officers after qualifying as above provided, shall have power at all places within the state lawfully to interfere to prevent the perpetration of any act of cruelty upon any dumb animal and may use such force as may be necessary to prevent the same and to that end may summon to their aid any bystander. They may make arrests for the violation of any penal law of this state relating to or affecting animals in the same manner as a constable or other peace officer. Except as otherwise provided by this section, a humane officer shall serve only in the county in which he or she is appointed. A humane officer may serve in a county other than that in which he or she is appointed only if he or she first informs the sheriff of the county that he or she intends to serve in that county. A humane officer is authorized to carry weapons while engaged in his or her duties as a humane officer, upon satisfactory completion of training, as approved by the Commission on Peace Officer Standards and Training, in the use of weapons.

(j) Every humane officer shall when making an arrest exhibit and expose a suitable badge to be adopted by the corporation under this title of which he or she is a member which shall bear its name and a number. Any person resisting a humane officer in the performance of his or her duty as provided in this section, is guilty of a misdemeanor. Any person who has not been appointed and qualified as a humane officer as provided in this section, or whose appointment has been revoked as provided in this section, or whose appointment, having expired, has not been renewed as provided in this section,

who shall represent himself or herself to be or shall attempt to act as an officer shall be guilty of a misdemeanor.

The provisions of this section added by amendments at the 1971 Regular Session shall apply only to humane officers appointed or reappointed after the effective date of those amendments.

SEC. 2. Section 3060 of the Government Code is amended to read:

3060. An accusation in writing against any officer of a district, county, or city, including any member of the governing board or personnel commission of a school district or any humane officer, for willful or corrupt misconduct in office, may be presented by the grand jury of the county for or in which the officer accused is elected or appointed. An accusation may not be presented without the concurrence of at least 12 grand jurors.

CHAPTER 999

An act to amend Sections 56161, 56728.5, and 56775 of, to amend Section 56728.6 of, to add Sections 56775.5, 56776, and 56777 to, and to repeal Section 56156.6 of, the Education Code, relating to special education, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1985 Filed with Secretary of State September 26, 1985]

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

SECTION 1. Section 56161 of the Education Code is amended to read:

56161. Individuals with exceptional needs served under this article shall not be subject to subdivision (a) of Section 56760 and the deficit provisions prescribed by Article 10 (commencing with Section 56790) of Chapter 7. In addition, if available funds are insufficient to fully fund entitlements pursuant to Article 10 (commencing with Section 41850) of Chapter 5 of Part 24, no deficit shall be applied to the portion of the entitlements for services to individuals prescribed in Section 56155. However, those pupils and appropriate instructional personnel units required to provide educational services to those pupils, shall be included in the computations prescribed in Section 56728.5.

SEC. 2. Section 56728.5 of the Education Code is amended to read:

56728.5. As a condition of receiving state aid pursuant to this chapter, a district or county office of education shall report in April of each year, on forms provided for this purpose by the Superintendent of Public Instruction, the count of the number of pupils receiving special education services provided by the district

or county office in the spring semester. The report shall individually report the unduplicated count in special day classes, resource specialist programs, and designated instructional services, and shall distinguish between pupils residing in licensed children's institutions, foster family homes, residential medical facilities, other similar facilities, and all other pupils.

The Superintendent of Public Instruction shall collect, as necessary, data from school districts, county offices of education, and other public and private agencies having information on licensed children's institutions, foster family homes, residential medical facilities, and other similar facilities.

SEC. 3. Section 56728.6 of the Education Code, as added by Section 7 of Chapter 115 of the Statutes of 1985, is amended to read:

56728.6. (a) Notwithstanding subdivision (d) of Section 56760, in the 1985–86 fiscal year and each fiscal year thereafter, a special education local plan area shall be eligible for state funding of those instructional personnel service units operated and fundable for services to children three years of age or older at the second principal apportionment of the prior fiscal year, if the pupil count divided by the number of instructional personnel service units is equal to or greater than the following:

(1) For special classes and centers — 9, based on the unduplicated pupil count.

(2) For resource specialist programs — 21, based on the unduplicated pupil count.

(3) For designated instruction and services — 20, based on the unduplicated pupil count, or 39, based on the duplicated pupil count.

(b) Notwithstanding subdivision (d) of Section 56760, in the 1984–85 fiscal year and each fiscal year thereafter, a special education local plan area shall be eligible for state funding of instructional personnel service units for services to children three years of age or older in excess of the number of instructional personnel service units operated and fundable at the second principal apportionment of the prior fiscal year only with the authorization of the Superintendent of Public Instruction.

(1) The superintendent shall not authorize additional units for a special education local plan area if, for that special education local plan area, the percentage of pupils in kindergarten and grades 1 through 12 enrolled in special education programs, excluding pupils residing in licensed children's institutions, foster family homes, residential medical facilities, and other similar facilities, and pupils less than three years of age, would exceed 10 percent.

(2) The superintendent shall not authorize additional units for a special education local plan area if, for that special education local plan area, the ratio of pupils in kindergarten and grades 1 through 12 receiving a specific instructional service, excluding pupils residing in licensed children's institutions, foster family homes, residential medical facilities, and other similar facilities, and pupils less than three years of age, would exceed the following:

(A) For special classes and centers — 0.028.

(B) For resource specialist programs — 0.040.

(C) For designated instruction services — 0.042.

(3) The superintendent may authorize additional units for a special education local plan area only if the area's pupil-instructional personnel unit ratios, based on the unduplicated pupil count, meet or exceed the ratios specified in paragraphs (1), (2), and (3) of subdivision (a).

(c) The Superintendent of Public Instruction shall base the authorization of funding for special education local plan areas pursuant to this section, including the reallocation of instructional personnel service units, upon criteria that shall include, but not be limited to, all of the following:

(1) Changes in the total number of pupils enrolled in kindergarten and grades 1 through 12.

(2) High- and low-average caseloads per instructional personnel service unit for each instructional setting.

(3) Lower than average and higher than average percentages of pupils in kindergarten and grades 1 through 12 who are currently enrolled in special education programs.

(d) A special education local plan area may apply for, and the superintendent may grant, a waiver of any of the standards and criteria specified in this section if compliance would prevent the provision of a free, appropriate public education or would create undue hardship. In granting the waivers, the superintendent shall consider both of the following:

(1) Pupil density of 25 or fewer units of average daily attendance per square mile in local plan areas of 30,000 or fewer average daily attendance, or pupil density of 20 or fewer units of average daily attendance per square mile in local plan areas of more than 30,000 average daily attendance.

(2) The location of licensed children's institutions, foster family homes, residential medical facilities, and other similar facilities within the boundaries of a local plan if 3 percent or more of the local plan's unduplicated pupil count resides in those facilities.

(e) For the purpose of this section, a special education local plan area may apply for, and the superintendent may grant, a waiver of the standards specified in paragraph (2) of subdivision (b) if the waiver is programmatically justified.

Waivers granted under this subdivision shall include an authorization for additional instructional personnel service units for a special education local plan area meeting the criteria for emergency instructional personnel service units prescribed in Section 56776 or for special education local plan areas demonstrating an increased enrollment of students residing in licensed children's institutions, foster family homes, residential medical facilities, and other similar facilities requiring additional instructional personnel service units, or both.

(f) By authorizing units pursuant to this section, the

superintendent shall not increase the statewide total number of instructional personnel service units for purposes of state apportionments unless an appropriation specifically for growth in the number of instructional personnel service units is made in the annual Budget Act or other legislation. If that appropriation is made, units authorized by the superintendent pursuant to this subdivision that result in an increase in the statewide total number of instructional personnel service units are subject to the following restrictions:

(1) The units shall be funded only by such appropriation and no other funds may be apportioned for the units.

(2) All units shall be fully funded pursuant to Chapter 7 (commencing with Section 56700) of Part 30.

SEC. 4. Section 56775 of the Education Code is amended to read:

56775. For the 1980–81 fiscal year and each fiscal year thereafter, the superintendent shall apportion to each district and county superintendent providing programs pursuant to Article 5 (commencing with Section 56155) of Chapter 2 an amount equal to the difference, if any, between (1) the costs of contracts with nonpublic, nonsectarian schools to provide special education instruction, related services, or both, to pupils in licensed children's institutions, foster family homes, residential medical facilities, and other similar facilities funded under this chapter, and (2) the state and federal income received by the district or county superintendent for providing these programs. The sum of the excess cost, plus any state or federal income for these programs, shall not exceed the cost of contracts with nonpublic, nonsectarian schools to provide special education and related services for these pupils, as determined by the superintendent.

SEC. 5. Section 56775.5 is added to the Education Code, to read:

56775.5. The Superintendent of Public Instruction may reimburse each district and county office of education providing programs pursuant to Article 5 (commencing with Section 56155) of Chapter 2 for assessment and identification costs for pupils in licensed children's institutions, foster family homes, residential medical facilities, and other similar facilities who are placed in state-certified nonpublic, nonsectarian schools.

Actual costs under this section shall not include either administrative or indirect costs, or any proration of support costs.

The total amount reimbursed statewide under this section shall not exceed the amount appropriated for these purposes in any fiscal year. If the superintendent determines that this amount is insufficient to reimburse all claims, the superintendent shall prorate the deficiency among all districts or county offices submitting claims.

SEC. 6. Section 56776 is added to the Education Code, to read:

56776. (a) The superintendent shall establish and maintain an emergency fund for the purpose of providing relief to special education local plan areas when a licensed children's institution, foster family home, residential medical facility, or other similar

facility serving individuals with exceptional needs opens or expands in a special education local plan area during the course of the school year which impacts the special education local plan area, or when a pupil is placed in a facility for which no public or state-certified nonpublic program exists within the special education local plan area in which the pupil's individualized education program can be implemented during the course of the school year and impacts the educational program.

(b) The special education local plan area in which the impaction occurs shall be responsible for submitting a written request to the superintendent for emergency instructional personnel units. The written request shall, at a minimum, contain all of the following:

(1) Specific information on the new or expanded licensed children's institution, foster family home, residential medical facility, or other similar facility described in subdivision (a), including information on the new unserved or underserved pupils residing in the facility, or specific information relating to the new unserved or underserved pupils residing in those facilities.

(2) The identification of the steps undertaken demonstrating that no public special education program exists within the special education local plan area capable of programmatically meeting the needs of the identified pupils.

(3) A plan from the special education local plan area describing the services to be provided.

(4) A description of the number of emergency instructional personnel service units requested and their specific uses.

(c) The superintendent shall approve, modify, or disapprove the written request for emergency instructional personnel service units within 30 days of the receipt of the written request and shall notify the special education local plan area administrator, in writing, of the final decision.

(d) It is the intent of the Legislature that appropriations necessary to fund these emergency instructional personnel service units shall be included in the Budget Act for each fiscal year.

SEC. 7. Section 56777 is added to the Education Code, to read:

56777. In the 1986–87 fiscal year and each fiscal year thereafter, the superintendent shall determine the need in that fiscal year for the purposes for which funding was provided in the prior fiscal year pursuant to Section 56776.

If the need still exists in the current fiscal year, the permanent funding of the need shall be the first priority in the allocation of the instructional personnel service units from any appropriation for growth in instructional personnel service units, or from instructional personnel service units that were released by another special education local plan area pursuant to subdivision (a) of Section 56728.6. In the event that permanent funding for these units is not available in the current year, the units shall receive first priority for funding pursuant to Section 56776.

SEC. 8. Notwithstanding Provision 2 of Item 6100-161-890 of the

Budget Act of 1985, the sum of one million five hundred sixty-one thousand dollars ($1,561,000) shall be allocated for purposes of establishing and maintaining an emergency fund pursuant to Section 56776 of the Education Code.

SEC. 10. The sum of three hundred thousand dollars ($300,000) from the funds appropriated in Item 6100-161-001 of the Budget Act of 1985 is hereby reappropriated to the Superintendent of Public Instruction for purposes of assessment and identification costs for pupils residing in licensed children's institutions, foster family homes, residential medical facilities, and other similar facilities placed in nonpublic, nonsectarian schools for school districts and county offices of education pursuant to Section 56775 of the Education Code.

SEC. 11. Funds appropriated for the purposes of this act shall not be included within "the total amount of money allocated for public education in California," as that term is used in Section 8880.1 of the Government Code, as added by the California State Lottery Act of 1984.

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 provide for the reimbursement of claims for special education programs and the transportation of individuals with exceptional needs at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 1000

An act to amend Sections 6382, 6383, and 6386 of, to add Section 6390.5 to, and to repeal Article 6 (commencing with Section 6399.9) of Chapter 2.5 of Part 1 of Division 5 of, the Labor Code, relating to hazardous substances information and training.

[Approved by Governor September 25, 1985. Filed with Secretary of State September 26, 1985.]

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

SECTION 1. Section 6382 of the Labor Code is amended to read:

6382. The director shall prepare and amend the list of hazardous substances according to the following procedure:

(a) Any substance designated in any of the following listings in subdivision (b) shall be presumed by the director to be potentially hazardous and shall be included on the list; provided, that the director shall not list a substance or form of the substance from the listings in subdivision (b) if he or she finds, upon a showing pursuant to the procedures set forth in Section 6380, that the substance as

present occupationally is not potentially hazardous to human health; and provided further, that a substance, mixture, or product shall not be considered hazardous to the extent that the hazardous substance present is in a physical state, volume, or concentration for which there is no valid and substantial evidence that any adverse acute or chronic risk to human health may occur from exposure.

(b) The listings referred to in subdivision (a) are as follows:

(1) Substances listed as human or animal carcinogens by the International Agency for Research on Cancer (IARC).

(2) Those substances designated by the federal Environmental Protection Agency pursuant to Section 307 (33 U.S.C. Sec. 1317) and Section 311 (33 U.S.C. Sec. 1321) of the federal Clean Water Act of 1977 (33 U.S.C. Sec. 1251, et seq.) or as hazardous air pollutants pursuant to Section 112 of the federal Clean Air Act, as amended (42 U.S.C. Sec. 7412) which have known, adverse human health risks.

(3) Substances listed by the Occupational Safety and Health Standards Board as an airborne chemical contaminant pursuant to Section 142.3 of the Labor Code.

(4) Those substances designated by the Director of Food and Agriculture as restricted materials pursuant to Section 14004.5 of the Food and Agricultural Code which have known, adverse human health risks.

(5) Substances for which an information alert has been issued by the repository of current data established pursuant to Section 147.2.

(c) The director shall at least every two years review the listings in subdivision (b) and shall revise the list to include new substances so listed or exclude substances no longer on the listings, pursuant to the standards set forth in subdivision (a).

(d) Notwithstanding Section 6381, in addition to those substances on the director's list of hazardous substances, any substance within the scope of the federal Hazard Communication Standard (29 C.F.R. Sec. 1910.1200) is a hazardous substance subject to the provisions of this chapter.

SEC. 2. Section 6383 of the Labor Code is amended to read:

6383. (a) For the purposes of this chapter, a hazardous substance is present in any mixture or product if it is present in any of the following concentrations:

(1) One percent or more of the mixture or product.

(2) Two percent of the mixture or product if the hazardous substance exists as an impurity in the mixture.

(3) One-tenth of 1 percent of the mixture or product if the hazardous substance in the mixture or product is designated as a carcinogen pursuant to the Occupational Carcinogens Control Act of 1976 (Ch. 2 (commencing with Section 24200), Div. 20, H.& S.C.) or the federal Hazard Communication Standard (29 C.F.R. Sec. 1910.1200).

The director may, by regulation, raise the concentration requirement for a hazardous substance which the director finds is not hazardous at the threshold levels; and, lower the concentration

requirement for a hazardous substance for which there is valid and substantial evidence that the substance is extraordinarily hazardous.

(b) The manufacturer of a hazardous substance shall notify the director of any valid evidence which indicates that the concentration requirement for a hazardous substance established pursuant to subdivision (a) is higher than what is necessary to protect employees who work with, or may be exposed to, the substance.

SEC. 3. Section 6386 of the Labor Code is amended to read:

6386. (a) A laboratory in which a hazardous substance is used by or under the direct supervision of a technically qualified individual is not an employer or manufacturer for the purposes of this chapter.

(b) This exemption does not excuse a laboratory from any of the following duties:

(1) A laboratory employer shall ensure that labels of incoming containers of hazardous substances are not removed or defaced.

(2) A laboratory employer shall maintain any material safety data sheets that are received with incoming shipments of hazardous substances and ensure that they are readily available to laboratory employees.

(c) This exemption does not include a laboratory that primarily provides a quality control analysis for a manufacturing process or produces hazardous substances for commercial purposes.

(d) "Technically qualified individual" means a person who, because of education, training, or experience, understands the risks associated with the use of the particular hazardous substance or mixture involved, and who conveys this knowledge to employees in terms of safe work practices.

SEC. 4. Section 6390.5 is added to the Labor Code, to read:

6390.5. The manufacturer, importer, and distributor of any hazardous substance, and the employer, shall label each container of a hazardous substance in a manner consistent with the federal Hazard Communication Standard (29 C.F.R. Sec. 1910.1200) and as set forth in applicable occupational safety and health standards adopted by the standards board.

SEC. 5. Article 6 (commencing with Section 6399.9) of Chapter 2.5 of Part 1 of Division 5 of the Labor Code is repealed.

SEC. 6. Reimbursement to local agencies and school districts for costs mandated by the state pursuant to this act shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code and, if the tatewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), shall be made from the State Mandates Claims Fund.

CHAPTER 1001

An act to amend Sections 50691.1, 50692, 50693, 50694, 50695, 50696, 50697, 50697.1, and 50786 of, and to add Sections 50406.2, 50406.5, and 50644 to, the Health and Safety Code, and to amend Item 2240-111-001 of the Budget Act of 1985, relating to housing, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1985. Filed with Secretary of State September 26, 1985]

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

SECTION 1. Section 50406.2 is added to the Health and Safety Code, to read:

50406.2. Notwithstanding any other provision of the law, the department may enter into long-term contracts or agreements for not more than 30 years for the purpose of servicing loans or grants or enforcing regulatory agreements or other security documents entered into pursuant to this part.

SEC. 1.3. Section 50406.5 is added to the Health and Safety Code, to read:

50406.5. (a) Notwithstanding any other provision of law, the department may make advance payments to eligible borrowers and grantees under any loan or grant programs for housing established pursuant to this part, if the department makes all of the following determinations:

(1) The advance payments are necessary to meet the purposes of the housing program.

(2) The advance payments are necessary for the feasibility of the assisted housing.

(3) The use of the advanced funds is adequately regulated by contract or budgetary controls so that the opportunity to accrue interest on the funds is not unnecessarily reduced.

(b) The department may enter into regulatory agreements to ensure that there is adequate financial security for the funds from which those advance payments are made.

SEC. 1.7. Section 50644 is added to the Health and Safety Code, to read:

50644. (a) In any contract or agreement entered into by the department for the services of persons to provide architectural or engineering services for the Century Freeway Housing Program, the department may agree to indemnify and hold harmless the contractor and may agree to repair or pay for any damage caused by activities undertaken pursuant to the contract or agreement.

(b) Notwithstanding Section 4526 of the Government Code, neither the director nor the Secretary of the Business, Transportation and Housing Agency is required to adopt the

regulations described in Section 4526 of the Government Code for purposes of subdivision (a). However, the director shall ensure that the services provided pursuant to the contract or agreement entered into pursuant to subdivision (a) are engaged on the basis of demonstrated competence and qualifications for the types of services to be performed and at fair and reasonable prices, and pursuant to procedures that ensure maximum participation of small business firms, as defined by the Director of General Services pursuant to Section 14837.

SEC. 2. Section 50691.1 of the Health and Safety Code is amended to read:

50691.1. The Legislature finds and declares that self-help housing generates self-reliance and a sense of community for participants, and that it is an important and proven source of housing for many low- and moderate-income California residents.

The Legislature further finds and declares that the California Self-Help Housing Program has been very successful in its goal of stimulating the production and rehabilitation of housing with the use of several self-help housing techniques, and that the program should be expanded to assist more low- and moderate-income residents throughout this state.

In addition to the purposes specified in Section 50691, the purposes of this chapter include all of the following:

(1) Expansion of the production of decent and affordable housing for low- and moderate-income people through the use of self-help methods of rehabilitation and construction.

(2) Expansion of homeownership opportunities for those to whom it would otherwise not be available without the cost savings achieved by the self-help method.

(3) Encouragement of self-reliance, pride of ownership, and sense of community for those who participate.

SEC. 3. Section 50692 of the Health and Safety Code is amended to read:

50692. As used in this chapter:

(a) "Owner-builder" means any person or family who provides all, or a substantial amount, as determined by the department, of the labor necessary to build a housing unit that will be the principal residence of that person or family.

(b) "Owner-building" means the process engaged in by owner-builders in the construction of a principal residence.

(c) "Self-help rehabilitator" means any person or family who provides all, or a substantial amount, as determined by the department, of the labor necessary to rehabilitate, renovate, or improve that person's or family's principal residence.

(d) "Self-help rehabilitation" means the process engaged in by self-help rehabilitators in the rehabilitation, renovation or improvement of their principal residences.

SEC. 4. Section 50693 of the Health and Safety Code is amended to read:

50693. There is hereby established, within the Division of Community Affairs of the department, a California Self-Help Housing Program.

SEC. 5. Section 50694 of the Health and Safety Code is amended to read:

50694. The California Self-Help Housing Program shall do all of the following:

(a) Be a clearinghouse for owner-building and self-help rehabilitation information.

(b) Conduct research projects and training projects pertaining to owner-building and self-help rehabilitation.

(c) Provide information and technical assistance to, and between, public and private agencies, community groups, and present and prospective owner-rehabilitators and self-help rehabilitators.

(d) Prepare, publish, and disseminate educational information relating to, and encouraging, owner-building and self-help rehabilitation.

(e) Encourage and facilitate the effective use of available housing resources by existing and potential owner-builders and self-help rehabilitators and other persons seeking to improve their principal residences.

(f) Encourage and assist the formation and operation of neighborhood organizations and community design centers to assist owner-builders and self-help rehabilitators.

SEC. 6. Section 50695 of the Health and Safety Code is amended to read:

50695. The California Self-Help Housing Program shall provide potential and actual owner-builders and self-help rehabilitators all of the following information and technical assistance:

(a) The cost savings of owner-building and self-help rehabilitation.

(b) Construction materials and methods.

(c) The identity of local material sources and technical resources.

(d) Financing requirements and opportunities.

(e) Site acquisition.

(f) Insurance and legal requirements.

(g) Energy and water conservation.

(h) Building codes and standards and housing codes.

(i) Other available housing alternatives.

(j) Any other information or technical assistance determined by the department to further the purposes of this chapter.

SEC. 7. Section 50696 of the Health and Safety Code is amended to read:

50696. (a) The California Self-Help Housing Program may provide the information and technical assistance required by Section 50695 in conjunction with federal and state energy and water conservation programs, and federal and state neighborhood preservation and urban homesteading programs, including local programs carried on in federally assisted community development

neighborhoods, neighborhood preservation areas, redevelopment project areas, urban homesteading areas, and residential rehabilitation areas.

(b) The California Self-Help Housing Program may contract with public entities and private nonprofit corporations to provide assistance to persons and families of low or moderate income who are owner-builders or self-help rehabilitators, as defined in subdivisions (a) and (c) of Section 50692. These contracts shall provide grant funds for any of the following activities:

(1) To cover the costs of developing, conducting, administering, or coordinating programs of technical or supervisory assistance which will aid persons and families of low or moderate income in carrying out owner-building or self-help rehabilitation housing efforts.

(2) To write down the development costs of the participant's housing.

(3) To reduce monthly mortgage payments by reducing the interest cost to the participant through supplemental payments of those grant funds, reducing principal, or deferring all or a portion of the payments until the housing is sold or refinanced.

(c) The primary emphasis of the California Self-Help Housing Program and local self-help housing programs shall be to expand and improve the housing stock available to lower income households. The program shall give priority to those applications received by the program which serve the highest proportion of lower income households.

(d) The department shall not contract with any public entity or private nonprofit corporation pursuant to subdivision (b) if that entity or corporation denies the benefits of this chapter, or discriminates in the provision of assistance pursuant to this chapter, in violation of Section 11135 of the Government Code, as determined by the department.

(e) Notwithstanding Section 50052.5, the department may establish a standard for monthly housing costs that does not exceed 30 percent of the gross monthly income of persons eligible for assistance pursuant to subdivision (b) of Section 50696.

SEC. 8. Section 50697 of the Health and Safety Code is amended to read:

50697. (a) The department shall encourage or support all self-help housing program activities in the state and shall do so in accordance with the policies, goals, and objectives of the California Statewide Housing Plan.

(b) The department may seek commitments, on a matching or other basis, from local agencies for the financial support of local self-help housing programs.

(c) The department may seek, obtain, and utilize public and private funds to carry out the purposes and general provisions of this chapter.

(d) The department shall adopt procedures and regulations

necessary to implement this chapter. The regulations shall include, but need not be limited to, both of the following requirements:

(1) A maximum mortgage subsidy limit.

(2) Guidelines which either encourage resale to lower income households or provide assistance to new self-help households. These guidelines shall include, but need not be limited to, permitting assumption of department mortgage subsidies or permitting partial or total forgiveness of mortgage subsidies after a specified period of occupancy by eligible households. If a household receiving assistance sells to a household which is not an eligible household, the regulations shall provide for repayment of the mortgage subsidy and may provide for payment of interest on the mortgage subsidy. The guidelines shall also provide that, if the market value at the time of resale to either an eligible or ineligible household is less than the total of outstanding mortgages, liens, and the value of the self-help equity, the amount due in repayment of the mortgage subsidy shall be reduced by the difference between that total and the market value.

(e) Any assistance provided pursuant to this chapter shall be considered a purchase or rehabilitation loan for the purposes of Section 711.5 of the Civil Code.

SEC. 9. Section 50697.1 of the Health and Safety Code is amended to read:

50697.1. (a) The Self-Help Housing Fund is hereby created in the State Treasury. Notwithstanding Section 13340 of the Government Code, all moneys in the fund are continuously appropriated for contracts entered into pursuant to subdivision (b) of Section 50696 and for costs incurred by the California Self-Help Housing Program in administering the program. The moneys in the fund are not subject to transfer to any other fund pursuant to Part 2 (commencing with Section 16300) of Division 4 of Title 2 of the Government Code, except the Surplus Money Investment Fund. The department may 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, dividends, and pecuniary gains from the investments shall accrue to the fund.

(b) The Self-Help Housing Fund shall consist of all of the following:

(1) Any moneys appropriated to the fund by the Legislature.

(2) Any moneys which the California Self-Help Housing Program receives in repayment or return of the funds, including any interest on those moneys.

(3) Any other moneys which may be made available to the California Self-Help Housing Program for the purposes of subdivision (b) of Section 50696 from any other source or sources.

SEC. 10. Section 50786 of the Health and Safety Code is amended to read:

50786. (a) The department shall adopt regulations for the

administration and implementation of this chapter.

(b) The department shall obtain the best available security for loans made pursuant to this chapter. The security may include a note, deed of trust, assignment of lease, or other form of security on real or personal property which the department determines is adequate to protect the interests of the state. To the extent applicable, these documents and any regulatory provisions shall be recorded or referenced in a recorded document in the office of the county recorder of the county in which the mobilehome park is located.

(c) The degree of continuing regulatory control with respect to park operations and resident loans exercised by the department in making loans pursuant to this chapter shall be commensurate with the level of financial assistance provided and in all cases shall be adequate to protect the state's security interest and assure the accomplishment of the purposes of the program authorized by this chapter. The regulatory requirements shall be set forth in a regulatory agreement, deed of trust, or other lien, and any violation of these requirements shall be considered a violation of a security document.

(d) Before providing financing pursuant to this chapter, the department shall require provision of, and approve, at least the following:

(1) Verification that at least two-thirds of the households residing in the mobilehome park support the plans for acquisition and conversion of the park.

(2) Verification that either no park residents will be involuntarily displaced as a result of the park conversion or the impacts of the displacement will be mitigated as required under state and local law.

(3) Verification that the conversion is consistent with local zoning and land use requirements, other applicable state and local laws, and regulations and ordinances.

(4) Projected costs and sources of funds for all conversion activities.

(5) Projected operating budget for the park during and after the conversion.

(6) A management plan for the conversion and operation of the park.

(7) If necessary, a relocation plan for residents not participating which is in compliance with Chapter 16 (commencing with Section 7260) of Division 7 of Title 1 of the Government Code.

(e) The department shall, to the greatest extent feasible, do both of the following:

(1) Require participation by cities and counties in loan applications submitted pursuant to this chapter.

(2) Contract with private lenders or units of local government to provide program administration and to service loans made pursuant to this chapter.

SEC. 11. Item 2240-111-001 of the Budget Act of 1985 (Chapter 111, Statutes of 1985) is amended to read:

2240-111-001—For local assistance, Department of Housing and Community Development 8,000,000
Provisions:
1. Of the amounts appropriated by this item, $5,000,000 is to be for deposit in the emergency shelter programs pursuant to Chapter 11 (commencing with Section 50800) of the Health and Safety Code.
2. Of the amounts appropriated by this item, $3,000,000 shall be for deposit in the Housing Rehabilitation Loan Fund, for acquiring and rehabilitating residential hotels pursuant to paragraph (2) of subdivision (a) of Section 50661 of the Health and Safety Code.

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:

There is an immediate need for implementation by the Department of Housing and Community Development of the California Self-Help Housing Program and the mobilehome park acquisition programs. However, prior to implementation of these programs, revisions which are provided for in this act must be incorporated into the enabling legislation for both of those programs. In addition, there is an immediate need to ensure that persons providing architectural or engineering services to the so-called Century Freeway Housing Program are eligible for indemnification by the department in order to ensure the effective operation of that program. It is, therefore, necessary for this act to take effect immediately.

CHAPTER 1002

An act to amend Section 8392 of, to add Section 8624 to, and to add and repeal Section 8681.5 of, the Fish and Game Code, relating to commercial fishing, and making an appropriation therefor.

[Approved by Governor September 25, 1985. Filed with Secretary of State September 26, 1985]

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

SECTION 1. Section 8392 of the Fish and Game Code is amended to read:

8392. (a) No California halibut may be taken, possessed, or sold

which measures less than 22 inches in total length, unless it weighs four pounds or more in the round, three and one-half pounds or more dressed with the head on, or three pounds or more dressed with the head off. Total length means the shortest distance between the top of the jaw or snout, whichever extends farthest while the mouth is closed, and the tip of the longest lobe of the tail, measured while the halibut is lying flat in natural repose, without resort to any force.

(b) The holder of a commercial fishing license may possess during one day for noncommercial use not more than four California halibut of less than 22 inches in total length or less than the minimum weights specified in subdivision (a) if taken incidentally in commercial fishing.

SEC. 2. Section 8624 is added to the Fish and Game Code, to read:

8624. (a) Set gill nets and trammel nets with mesh size of not less than 8½ inches may be used to take California halibut in ocean waters between a line extending due west magnetic from Ragged Point in San Luis Obispo County, and a line extending due west magnetic from Point Dume in Los Angeles County.

(b) No permittee operating under a gill net or trammel net permit issued pursuant to Section 8681 shall fish, in combination each day, more than 1,000 fathoms (6,000 feet) of set gill or trammel nets for California halibut in ocean waters between a line extending due west magnetic from Ragged Point in San Luis Obispo County and a line extending due west magnetic from Point Dume in Los Angeles County.

(c) This section shall become operative on August 15, 1986.

SEC. 3. Section 8681.5 is added to the Fish and Game Code, to read:

8681.5. (a) Until January 1, 1990, the department shall issue no new gill net or trammel net permits under Section 8681, except to those persons who applied prior to January 1, 1986, to take the examination for a gill and trammel net permit issued pursuant to Section 8681 and who pass the examination. However, the department may renew an existing, valid permit issued under Section 8681, under regulations adopted pursuant to Section 8682 and upon payment of the fee prescribed under Section 8683.

(b) Notwithstanding subdivision (a) or Section 8681, any person who has an existing, valid permit issued pursuant to Section 8681, and presents to the department satisfactory evidence that he or she has taken and landed fish for commercial purposes in at least 15 of the preceding 20 years, may transfer that permit to any person otherwise qualified under the regulations adopted pursuant to Section 8682 upon payment of the fee prescribed under Section 8683.

(c) The fee collected by the department for the transfer of a gill and trammel net permit issued pursuant to Section 8682 shall not exceed the cost of the permit fee as prescribed under Section 8683.

(d) Any active participant who becomes disabled in such a manner that he or she can no longer earn a livelihood from commercial fishing may transfer his or her permit as provided under

this section.

(e) On or before January 1, 1989, the department shall prepare and submit to the Legislature a report assessing the need for recommending a limited entry program for permits to use gill nets or trammel nets for commercial fishing purposes.

(f) If the moratorium set forth in subdivision (a) is extended by a later enacted statute, all provisions of this section shall also be so extended.

(g) 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 enacted before January 1, 1990, deletes or extends that date.

SEC. 4. No reimbursement is required by this act pursuant to 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 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 1003

An act to add Sections 1356 and 1368 to the Civil Code, relating to common-interest subdivisions.

[Approved by Governor September 25, 1985 Filed with Secretary of State September 26, 1985]

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

SECTION 1. Section 1356 is added to the Civil Code, to read:

1356. (a) If in order to amend a declaration, the declaration requires owners having more than 50 percent of the votes in the association, in a single class voting structure, or owners having more than 50 percent of the votes in more than one class in a voting structure with more than one class, to vote in favor of the amendment, the association, or any owner of a separate interest, may petition the superior court of the county in which the common interest development is located for an order reducing the percentage of the affirmative votes necessary for such an amendment. The petition shall describe the effort that has been made to solicit approval of the association members in the manner provided in the declaration, the number of affirmative and negative votes actually received, the number or percentage of affirmative votes required to effect the amendment in accordance with the existing declaration, and other matters the petitioner considers relevant to the court's determination. The petition shall also contain, as exhibits thereto, copies of all of the following:

(1) The governing documents.

(2) A complete text of the amendment.

(3) Copies of any notice and solicitation materials utilized in the solicitation of owner approvals.

(4) A short explanation of the reason for the amendment.

(5) Any other documentation relevant to the court's determination.

(b) Upon filing the petition, the court shall set the matter for hearing and issue an ex parte order setting forth the manner in which notice shall be given.

(c) The court may, but shall not be required to, grant the petition if it finds all of the following:

(1) The petitioner has given not less than 15 days written notice of the court hearing to all members of the association, to any mortgagee of a mortgage or beneficiary of a deed of trust who is entitled to notice under the terms of the declaration, and to the city, county, or city and county in which the common interest development is located that is entitled to notice under the terms of the declaration.

(2) Balloting on the proposed amendment was conducted in accordance with all applicable provisions of the governing documents.

(3) A reasonably diligent effort was made to permit all eligible members to vote on the proposed amendment.

(4) Owners having more than 50 percent of the votes, in a single class voting structure, voted in favor of the amendment. In a voting structure with more than one class, where the declaration requires a majority of more than one class to vote in favor of the amendment, owners having more than 50 percent of the votes of each class required by the declaration to vote in favor of the amendment voted in favor of the amendment.

(5) The amendment is reasonable.

(6) Granting the petition is not improper for any reason stated in subdivision (e).

(d) If the court makes the findings required by subdivision (c), any order issued pursuant to this section may confirm the amendment as being validly approved on the basis of the affirmative votes actually received during the balloting period or the order may dispense with any requirement relating to quorums or to the number or percentage of votes needed for approval of the amendment that would otherwise exist under the governing documents.

(e) Subdivisions (a) to (d), inclusive, notwithstanding, the court shall not be empowered by this section to approve any amendment to the declaration that:

(1) Would change provisions in the declaration requiring the approval of owners having more than 50 percent of the votes in more than one class to vote in favor of an amendment, unless owners having more than 50 percent of the votes in each affected class approved the amendment.

(2) Would eliminate any special rights, preferences, or privileges designated in the declaration as belonging to the declarant, without

the consent of the declarant.

(3) Would impair the security interest of a mortgagee of a mortgage or the beneficiary of a deed of trust without the approval of the percentage of the mortgagees and beneficiaries specified in the declaration, if the declaration requires the approval of a specified percentage of the mortgagees and beneficiaries.

(f) An amendment is not effective pursuant to this section until the court order and amendment have been recorded in every county in which a portion of the common interest development is located. The amendment may be acknowledged by, and the court order and amendment may be recorded by, any person designated in the declaration or by the association for that purpose, or if no one is designated for that purpose, by the president of the association. Upon recordation of the amendment and court order, the declaration, as amended in accordance with this section, shall have the same force and effect as if the amendment were adopted in compliance with every requirement imposed by the governing documents.

(g) Within a reasonable time after the amendment is recorded the association shall mail a copy of the amendment to each member of the association, together with a statement that the amendment has been recorded.

SEC. 2. Section 1368 is added to the Civil Code, to read:

1368. (a) The owner of a separate interest shall, as soon as practicable before transfer of title or execution of a real property sales contract therefor, as defined in Section 2985, provide the following to the prospective purchaser:

(1) A copy of the governing documents of the common interest development.

(2) A copy of the most recent financial statement distributed pursuant to Section 1365.

(3) A true statement in writing from an authorized representative of the association as to the amount of any assessments levied upon the owner's interest in the common interest development which are unpaid on the date of the statement. The statement shall also include true information on late charges, interest, and costs of collection which, as of the date of the statement, are or may be made a lien upon the owner's interest in the common interest development pursuant to Section 1367.

(b) Upon written request, an association shall, within 10 days of the mailing or delivery of the request, provide the owner of a separate interest with a copy of the requested items specified in paragraphs (1), (2), and (3) of subdivision (a). The association may charge a fee for this service, which shall not exceed the association's reasonable cost to prepare and reproduce the requested items.

(c) Any person or entity who willfully violates this section shall be liable to the purchaser of a separate interest which is subject to this section for actual damages occasioned thereby and, in addition, shall pay a civil penalty in an amount not to exceed five hundred dollars ($500). In an action to enforce this liability, the prevailing party shall

be awarded reasonable attorneys' fees.

(d) Nothing in this section affects the validity of title to real property transferred in violation of this section.

(e) In addition to the requirements of this section, an owner transferring title to a separate interest shall comply with applicable requirements of Sections 1133 and 1134.

SEC. 3. Sections 1 and 2 of this act shall become operative only if this bill and Assembly Bill No. 314 of the 1985–86 Regular Session are both enacted and become effective on January 1, 1986, Assembly Bill No. 314 adds Sections 1356 and 1368 to the Civil Code, and this bill is enacted after Assembly Bill No. 314, in which case Sections 1356 and 1368 of the Civil Code, as added by Assembly Bill No. 314, shall not be operative.

CHAPTER 1004

An act to amend Sections 55882, 56621, 66641, 67028, 67112, 68028, 68039, 68057, 68101, 68113, 69017, 69022, 69088, 69093, 72030, 72032, 72033, 72058, 72081, 72101, 72112.5, 72131, 72132, 72133, 72134, 75030, 75153, 76004, 76026, 76027, 76029, 76030, 76031, 76033, 76051, 76055, 76059, 76060, 76061, 76065, 76067, 76082, 76083, 76085, 76088, 76089, 76091, 76092, 76093, 76094, 76097, 76111, 76112, 76115, 76116, 76117, 76119, 76120, 76141, 76142, 76145, 76147, 76161, 76163, 76181, 76182, 76183, and 76184 of, and to add Sections 68044, 72030.5, 72131.5, 72133.5, and 76183.5 to, the Food and Agricultural Code, relating to agriculture, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1985 Filed with Secretary of State September 26, 1985]

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

SECTION 1. Section 55882 of the Food and Agricultural Code is amended to read:

55882. It is a violation of this chapter if a licensee fails, neglects, or refuses to collect or remit any assessments which have been levied in accordance with the assessment provisions of Article 10 (commencing with Section 58921) of Chapter 1 or Article 12 (commencing with Section 59941) of Chapter 2 of Part 2 of Division 21, or Article 8 (commencing with Section 64691) of Chapter 2, Article 5 (commencing with Section 66621) of Chapter 4, Article 6 (commencing with Section 67101) of Chapter 5, Article 6 (commencing with Section 68101) of Chapter 6, Article 6 (commencing with Section 69081) of Chapter 7, Article 6 (commencing with Section 72101) of Chapter 10, Article 6 (commencing with Section 75131) of Chapter 13, or Article 6 (commencing with Section 76141) of Chapter 14 of Division 22.

SEC. 2. Section 56621 of the Food and Agricultural Code is amended to read:

56621. It is a violation of this chapter if a licensee fails, neglects, or refuses to collect or remit any assessments which have been levied in accordance with the assessment provisions of Article 10 (commencing with Section 58921) of Chapter 1 or Article 12 (commencing with Section 59941) of Chapter 2 of Part 2 of Division 21, or Article 8 (commencing with Section 64691) of Chapter 2, Article 5 (commencing with Section 66621) of Chapter 4, Article 6 (commencing with Section 67101) of Chapter 5, Article 6 (commencing with Section 68101) of Chapter 6, Article 6 (commencing with Section 69081) of Chapter 7, Article 6 (commencing with Section 72101) of Chapter 10, Article 6 (commencing with Section 75131) of Chapter 13, or Article 6 (commencing with Section 76141) of Chapter 14 of Division 22.

SEC. 3. Section 66641 of the Food and Agricultural Code is amended to read:

66641. The commission may, if it finds a violation of this chapter or any rule or regulation has occurred, or in the event of nonpayment of any assessment, bring a proceeding as provided under Section 66644 in its name for collection of such assessment, civil penalties, or for injunctive relief, including specific performance, or enforcement of any obligation imposed by this chapter or any rule or regulation issued thereunder, or both, against any person violating any provisions of this chapter or any rule or regulation adopted pursuant thereto.

A court shall issue to the commission any requested writ of attachment or injunctive relief upon a prima facie showing by verified complaint that a named defendant has violated this chapter or any other rule or regulation of the commission, including, but not limited to, the nonpayment of assessments. No bond shall be required to be posted by the commission as a condition for the issuance of any writ of attachment or injunctive relief. A writ of attachment shall be issued pursuant to Chapter 5 (commencing with Section 485.010) of Title 6.5 of Part 2 of the Code of Civil Procedure, except that the showing specified by Section 485.010 is not required. Injunctive relief shall be issued pursuant to Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, except that the showing of irreparable harm or of inadequate remedy at law specified by Section 526 or 527 is not required.

Upon entry of any final judgment on behalf of the commission against any defendant, the court shall enjoin the defendant from conducting any type of business regarding the commodity subject to this chapter until payment of the judgment is made in full by the defendant to the commission.

In any such proceeding, the court shall award reasonable attorney's fees incurred by the commission therein and shall, upon entry of any final judgment, enjoin any such handler from further handling until payment is made for any judgment entered for

money, and from further violating or aiding in violation of this chapter or any rule or regulation of the commission. No such proceeding may be commenced until the commission has exhausted its administrative procedures prescribed by the rules and regulations of the commission.

SEC. 4. Section 67028 of the Food and Agricultural Code is amended to read:

67028. "Distributor" means any person who engages, in this state, in the operation of selling, marketing, or distributing avocados which he or she has produced or purchased or acquired from a producer, or which he or she is marketing on behalf of a producer, whether as owner, agent, employee, broker, or otherwise. When the distributor is a corporation, all of the directors and officers of the corporation in their capacity as individuals shall be included, and any liability for failure to collect or make payment of assessments of which a corporate distributor may be subject pursuant to this chapter shall include identical liability upon each individual director or officer of the corporation. "Distributor" does not include a cooperative bargaining association that recommends that its members market their avocados through specified handlers and which otherwise is not involved in the sale of avocados. It also does not include a retailer, except for a retailer who purchases or acquires from any producer, or handles on behalf of any producer, avocados which were not previously subjected to regulation by the commission.

SEC. 5. 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.

A court shall issue to the commission any requested writ of attachment or injunctive relief upon a prima facie showing by verified complaint that a named defendant has violated this chapter or any other rule or regulation of the commission, including, but not limited to, the nonpayment of assessments. No bond shall be required to be posted by the commission as a condition for the issuance of any writ of attachment or injunctive relief.

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.

A writ of attachment shall be issued pursuant to Chapter 5 (commencing with Section 485.010) of Title 6.5 of Part 2 of the Code of Civil Procedure, except that the showing specified by Section 485.010 is not required. Injunctive relief shall be issued pursuant to Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, except that the showing of irreparable harm or of inadequate remedy at law specified by Section 526 or 527 is not required.

Upon entry of any final judgment on behalf of the commission against any defendant, the court shall enjoin the defendant from conducting any type of business regarding the commodity subject to this chapter until there is full compliance with and satisfaction of the judgment.

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. 6. Section 68028 of the Food and Agricultural Code is amended to read:

68028. "Distributor" means any person who engages in the operation of selling, marketing, or distributing kiwifruit which he has produced or purchased or acquired from a producer, or which he is marketing on behalf of a producer, whether as owner, agent, employee, broker, or otherwise. When the distributor is a corporation, all of the directors and officers of the corporation in their capacity as individuals shall be included, and any liability for failure to collect or make payment of assessments of which a corporate distributor may be subject pursuant to this chapter shall include identical liability upon each individual director or officer of the corporation. It does not, however, include a retailer, except a retailer who purchases or acquires from, or handles on behalf of any producer, kiwifruit which was not previously subject to assessment by the commission.

SEC. 7. Section 68039 of the Food and Agricultural Code is amended to read:

68039. "Processor" means any person engaged, within this state, in the operation of canning, fermenting, distilling, extracting, preserving, grinding, crushing, or in any other manner changing the form of kiwifruit for the purpose of preparing it for market and marketing the kiwifruit, or who is engaged in any activities which are performed for the purpose of marketing processed kiwifruit. When the processor is a corporation, all of the directors and officers of the corporation in their capacity as individuals are included, and any liability for failure to collect or make payment of assessments to which a corporate processor may be subject pursuant to this chapter includes the same liability for each individual director or officer of the corporation.

The term "processor" does not, however, include a person who is engaged in manufacturing from kiwifruit so changed in form another and different product.

SEC. 8. Section 68044 is added to the Food and Agricultural Code, to read:

68044. "Tray" means a receptacle used in the packaging or handling of kiwifruit.

SEC. 9. Section 68057 of the Food and Agricultural Code is amended to read:

68057. The term of office of all commissioners, except any ex officio member, shall be for two years from the date of their election and until their successors are qualified; provided, however, that of the first members of the commission, one-half shall serve for one year, and one-half shall serve for two years, with the determination of term of each such member to be made by lot at the time of election. The same selection procedure shall apply to the two handler members. Terms of office of each commissioner shall be limited to four consecutive terms, except that any member selected to serve a one-year term may serve one additional two-year term.

SEC. 10. Section 68101 of the Food and Agricultural Code is amended to read:

68101. (a) The commission shall not later than October 1 of each year, establish the assessment for the following year beginning October 1 and ending September 30. In no event shall the combined assessment of the commission and any other state authorized kiwifruit production research and market program exceed 6 percent of the gross dollar value of the year's sale of kiwifruit by all producers to handlers, or which are sold by handlers on behalf of producers. The assessment may be computed in any manner determined by the commission to be reasonably equivalent to the assessment established by the commission.

Expenditures for administrative purposes, as defined by the commission, within the maximum assessment shall not exceed 1½ percent of the gross dollar value of sales of kiwifruit by all producers to handlers.

The commission shall establish producer gross dollar value through rules and regulations, taking into consideration postharvest expenses

and the varying circumstances in handling the kiwifruit.

(b) As an alternative to subdivision (a), the commission may, not later than October 1 of each year, establish the assessment for the following year beginning October 1 and ending September 30. In no event shall this assessment exceed thirty cents ($0.30) per seven-pound tray of kiwifruit, or the equivalent thereto. The assessment may be established at different rates for the various ways in which kiwifruit is marketed, including, but not limited to, flats, bags, bins, and processed products. In each case, the assessment rate on an average shall be reasonably equivalent to the assessment requirements of subdivision (a).

(c) A fee greater than the amount provided for in subdivisions (a) or (b) may not be charged unless and until a greater fee is approved by producers pursuant to Section 68092.

SEC. 11. Section 68113 of the Food and Agricultural Code is amended to read:

68113. The commission may commence civil actions and utilize all remedies provided in law or equity for the collection of assessments and civil penalties, and for the obtaining of injunctive relief or specific performance, respecting this chapter and the rules and regulations adopted under this chapter. A court shall issue to the commission any requested writ of attachment or injunctive relief upon a prima facie showing by verified complaint that a named defendant has violated this chapter or any other rule or regulation of the commission, including, but not limited to, the nonpayment of assessments. No bond shall be required to be posted by the commission as a condition for the issuance of any writ of attachment or injunctive relief. A writ of attachment shall be issued pursuant to Chapter 5 (commencing with Section 485.010) of Title 6.5 of Part 2 of the Code of Civil Procedure, except that the showing specified by Section 485.010 is not required. Injunctive relief shall be issued pursuant to Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, except that the showing of irreparable harm or of inadequate remedy at law specified by Section 526 or 527 is not required.

Upon entry of any final judgment on behalf of the commission against any defendant, the court shall enjoin the defendant from conducting any type of business regarding the commodity subject to this chapter until there is full compliance with and satisfaction of the judgment. Except as provided in Section 68054, upon a favorable verdict for the commission, it may receive reimbursement for any reasonable attorney's fees and other related costs. Venue for these actions may be established at the domicile or place of business of the defendant or in the county of the principal office of the commission. The commission may be sued only in the county of its principal office.

SEC. 12. Section 69017 of the Food and Agricultural Code is amended to read:

69017. "Handler" means any person who engages in the operation of selling, marketing, or distributing pistachios which he or

she has produced or purchased or acquired from a producer, or which he or she is marketing on behalf of a producer, whether as owner, agent, employee, broker, or otherwise. When the handler is a corporation, all of the directors and officers of the corporation in their capacity as individuals shall be included, and any liability for failure to collect or make payment of assessments of which a corporate handler may be subject pursuant to this chapter shall include identical liability upon each individual director or officer of the corporation. It does not, however, include a retailer, except a retailer who purchases or acquires from, or handles on behalf of, any producer pistachios which were not previously subject to regulation by the commission.

SEC. 13. Section 69022 of the Food and Agricultural Code is amended to read:

69022. (a) "Processor" means any person engaged, within this state, as a handler in the business of selling, marketing, or distributing pistachios, and employees thereof so engaged.

(b) For purposes of the collection of assessments, "processor" also means a person, business, or corporation which prepares for market pistachios he or she has produced or received from producers, and in so doing establishes the commodity's marketability. When the processor is a corporation, all the directors and officers of the corporation in their capacity as individuals are included, and any liability for failure to collect or make payment of assessments to which a corporate processor may be subject pursuant to this chapter includes the same liability for each individual director or officer of the corporation. If the marketable pistachios are returned to the producer for handling, the processor shall collect from the producer the assessments provided for under this chapter, and shall handle these funds in accordance with Section 69085 and be subject to the requirements of Article 6 (commencing with Section 69081).

SEC. 14. Section 69089 of the Food and Agricultural Code is amended to read:

69088. (a) Any producer or processor who fails to file a return or pay any assessment within the time required by the commission shall pay to the commission a penalty of 10 percent of the amount of the assessment determined to be past due and, in addition, interest on the unpaid balance at the rate of 1½ percent per month.

(b) In addition to any other penalty imposed, the commission may require any person who fails to pay any assessment or related charge pursuant to this article to furnish and maintain a surety bond in a form and amount and for a period of time specified by the commission as assurance that all payments to the commission will be made when due.

SEC. 15. Section 69093 of the Food and Agricultural Code is amended to read:

69093. The commission may commence civil actions and utilize all remedies provided in law or equity for the collection of assessments and civil penalties, and for the obtaining of injunctive

relief or specific performance, respecting this chapter and the rules and regulations adopted under this chapter. A court shall issue to the commission any requested writ of attachment or injunctive relief upon a prima facie showing by verified complaint that a named defendant has violated this chapter or any other rule or regulation of the commission, including, but not limited to, the nonpayment of assessments. No bond shall be required to be posted by the commission as a condition for the issuance of any writ of attachment or injunctive relief. A writ of attachment shall be issued pursuant to Chapter 5 (commencing with Section 485.010) of Title 6.5 of Part 2 of the Code of Civil Procedure, except that the showing specified by Section 485.010 is not required. Injunctive relief shall be issued pursuant to Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, except that the showing of irreparable harm or of inadequate remedy at law specified by Section 526 or 527 is not required.

Upon entry of any final judgment on behalf of the commission against any defendant, the court shall enjoin the defendant from conducting any type of business regarding the commodity subject to this chapter until there is full compliance with and satisfaction of the judgment. Notwithstanding Section 69033.5, upon a favorable verdict for the commission, it may receive reimbursement for any reasonable attorney's fees and other actual related costs. Venue for these actions may be established at the domicile or place of business of the defendant or in the county of the principal office of the commission. The commission may be sued only in the county of its principal office.

SEC. 16. Section 72030 of the Food and Agricultural Code is amended to read:

72030. "Handler" means any person who engages in the operation of selling, marketing, or distributing wheat which he or she has produced, purchased, or acquired from a producer, or which he or she is marketing on behalf of a producer, whether as owner, agent, employee, broker, or otherwise. When the handler is a corporation, all of the directors and officers of the corporation in their capacity as individuals shall be included, and any liability for failure to collect or make payments or assessments of which a corporate handler may be subject pursuant to this chapter shall include identical liability upon each individual director or officer of the corporation.

SEC. 17. Section 72030.5 is added to the Food and Agricultural Code, to read:

72030.5. "Handler" also means any lienholder, secured party or pledgee that is a public agency, public or private, or assignee of a lienholder, secured party or pledgee that is a public agency, who is authorized to gain title to the wheat from the producer through the exercise of specified legal rights, including, but not limited to, a federal nonrecourse loan.

SEC. 18. Section 72032 of the Food and Agricultural Code is amended to read:

72032. "Marketing season" or "fiscal year" means the period beginning May 1 of any year and extending through April 30 of the following year.

SEC. 19. Section 72033 of the Food and Agricultural Code is amended to read:

72033. "Producer" or "grower" means any person who is engaged, within this state, in the business of producing wheat for market during any of the preceding three marketing seasons, and who shall, upon request, provide proof of commodity sale.

SEC. 20. Section 72058 of the Food and Agricultural Code is amended to read:

72058. The term of office of all commissioners, except any ex officio member, shall be for three years from the date of their election and until their successors are qualified and elected. However, of the first producer members of the commission, five shall serve for one year, five shall serve for two years, and five shall serve for three years, with the determination of term of each member to be made by lot at the time of election. Terms of office of each commissioner shall be limited to four consecutive terms, except that any member selected to serve a one-year term or a two-year term may serve one additional three-year term.

SEC. 21. Section 72081 of the Food and Agricultural Code is amended to read:

72081. The powers and duties of the commission shall include, but are not limited to, all of the following:

(a) To adopt, and from time to time, alter, rescind, modify, and amend all proper and necessary bylaws, rules, regulations, and orders for carrying out the provisions of this chapter, including rules for regulation of appeals from any bylaw, rule, regulation, or order of the commission.

(b) To administer and enforce this chapter, and to do and perform all acts and exercise all powers incidental to, or in connection with or deemed reasonably necessary for, proper or advisable effectuation of the purposes of this chapter.

(c) To appoint its own officers, including a chairman, one or more vice chairmen, and such other officers as it deems necessary. The officers shall have the powers and duties delegated to them by the commission.

(d) To employ a person to serve, at the pleasure of the commission, as chief executive officer of the commission and other personnel, including legal counsel, that is necessary to carry out the provisions of this chapter. The commission may retain a management firm or any staff from any board, commission, or committee of the state to perform the functions prescribed by this subdivision under the control of the commission. If the chief executive officer engages in any conduct which the director determines is not in the public interest or which is in violation of this chapter, the director shall notify the commission of the conduct and request that corrective and, if appropriate, disciplinary action be

taken by the commission. In the event that the commission fails or refuses to correct the situation or to take disciplinary action satisfactory to the director, the director may suspend or discharge the chief executive officer.

(e) To fix the compensation for all employees of the commission.

(f) To appoint committees composed of both members and nonmembers of the commission to advise the commission in carrying out the provisions of this chapter.

(g) To establish offices and incur expenses, and to enter into any and all contracts and agreements, and to create such liabilities and borrow such funds in advance of receipt of assessments as may be necessary, in the opinion of the commission, for the proper administration and enforcement of this chapter and the performance of its duties.

(h) To keep accurate books, records and accounts of all of its dealings, which books, records and accounts shall be subject to an annual audit by an auditing firm selected by the commission with the concurrence of the director. The audit shall be made a part of an annual report to all producers and handlers of wheat, copies of which shall also be submitted to the Legislature and the Department of Food and Agriculture. In addition, the director may, as he determines necessary, conduct, or cause to be conducted, a fiscal and compliance audit of the commission.

(i) To promote the sale of wheat by advertising and other promotional means, including cost-sharing advertising, for the purpose of maintaining and expanding present markets and creating new and larger intrastate, interstate, and foreign markets for wheat and to educate and instruct the public with respect to the uses of the several varieties and the healthful properties and nutritional value of wheat.

(j) To appoint an advisory committee composed of handlers to aid the commission in its deliberations.

(k) To make, in the name of the commission, contracts to render service in formulating and conducting plans and programs, and such other contracts or agreements as the commission may deem necessary for the promotion of the sale of wheat.

(*l*) To conduct and contract with others to conduct scientific research, including the study, analysis, dissemination, and accumulation of information obtained from this research or elsewhere respecting cultural and production practices, marketing, and distribution of wheat. In connection with research, the commission shall have the power to accept contributions of, or to match, private, state, or federal funds that may be available for those purposes, and to employ or make contributions of funds to other persons or state or federal agencies conducting the research.

(m) To publish and distribute, without charge, a bulletin or other communication for dissemination of information relating to the wheat industry to producers and handlers.

(n) To establish an assessment rate to defray operating costs of the

commission.

(o) To establish an annual budget according to accepted accounting practices. The budget shall be concurred in by the director prior to disbursement of funds, except for disbursements made pursuant to subdivision (e) of Section 72081.

(p) To educate and instruct wheat customers and buyers with respect to proper methods of handling and selling wheat, to make market surveys and analyses, to present facts to, and negotiate with, state, federal and foreign agencies on matters which affect the marketing of wheat, and to maintain and expand present markets and create new markets for wheat.

(q) The commission may investigate and prosecute civil violations of this chapter and file complaints with appropriate law enforcement agencies or officers for criminal violation of this chapter.

SEC. 22. Section 72101 of the Food and Agricultural Code is amended to read:

72101. The commission shall, not later than April 30 of each year, establish the assessment for the following year beginning May 1 and ending April 30. In no event shall the combined assessment of the commission and any other state authorized wheat production research and market program exceed 1 percent of the gross dollar value of the year's sale of wheat by all producers to handlers.

The commission shall establish producer gross dollar value through rules and regulations.

SEC. 23. Section 72112.5 of the Food and Agricultural Code is amended to read:

72112.5. The commission may commence civil actions and utilize all remedies provided in law or equity for the collection of assessments and civil penalties, and for the obtaining of injunctive relief or specific performance, respecting this chapter and the rules and regulations adopted under this chapter. A court shall issue to the commission any requested writ of attachment or injunctive relief upon a prima facie showing by verified complaint that a named defendant has violated this chapter or any other rule or regulation of the commission, including, but not limited to, the nonpayment of assessments. No bond shall be required to be posted by the commission as a condition for the issuance of any writ of attachment or injunctive relief. A writ of attachment shall be issued pursuant to Chapter 5 (commencing with Section 485.010) of Title 6.5 of Part 2 of the Code of Civil Procedure, except that the showing specified by Section 485.010 is not required. Injunctive relief shall be issued pursuant to Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, except that the showing of irreparable harm or of inadequate remedy at law specified by Section 526 or 527 is not required.

Upon entry of any final judgment on behalf of the commission against any defendant, the court shall enjoin the defendant from conducting any type of business regarding the commodity subject to this chapter until there is full compliance with and satisfaction of the

judgment. Upon a favorable verdict for the commission, it shall be entitled to receive reimbursement for any reasonable attorneys' fees and other related costs. Venue for the actions may be established at the domicile or place of business of the defendant or in the county of the principal office of the commission. The commission may be sued only in the county of its principal office.

SEC. 24. Section 72131 of the Food and Agricultural Code is amended to read:

72131. Between May 1, 1987, and April 30, 1988, the commission shall cause a referendum to be conducted among producers in the manner prescribed in Section 72131.5 to determine whether the operation of this chapter shall be reapproved and continued effective. If the director finds that a favorable vote has been given, he or she shall so certify and this chapter shall remain effective. If the director finds that a favorable vote has not been given, he or she shall so certify and declare the operation of this chapter and the commission suspended upon the expiration of the current marketing season ending April 30, 1988. Thereupon, the operations of the commission shall be concluded and funds distributed in the manner provided in Section 72134. No bond or security shall be required for any such referendum.

SEC. 25. Section 72131.5 is added to the Food and Agricultural Code, to read:

72131.5. The operation of this chapter shall be reapproved and continued in effect if the director finds, in the referendum required pursuant to Section 72131, that a majority of the eligible producers voting in the referendum, voted in favor of continuing the operation of this chapter.

SEC. 26. Section 72132 of the Food and Agricultural Code is amended to read:

72132. Following a favorable referendum conducted prior to April 30, 1988, a referendum shall be conducted by the commission every fifth year thereafter between May 1 and April 30, following procedures provided by this chapter and Section 72131.5, unless a referendum is conducted as the result of an industry petition pursuant to Section 72133. In that case the referendum shall be every fifth year following the industry petitioned referendum.

SEC. 27. Section 72133 of the Food and Agricultural Code is amended to read:

72133. Upon the finding of a two-thirds vote of the commission that the operation of this chapter has not tended to effectuate its declared purposes, the commission may recommend to the director that the operation of this chapter shall be suspended. However, any suspension shall not become effective until the expiration of the current marketing season. The director shall, upon receipt of the recommendation, or may upon a petition filed with him requesting the suspension, signed by 15 percent of the producers by number who produced not less than 15 percent of the volume in the immediately preceding season, and after a public hearing, cause a

referendum to be conducted among the listed producers to determine if the operation and the operations of the commission shall be suspended. However, the director shall not cause a referendum to be conducted as a result of the petition unless the petitioner shows by the weight of evidence that the operation of this chapter has not tended to effectuate its declared purposes. The director shall establish a referendum period, which shall not be less than 10 nor more than 60 days in duration. The director is authorized to prescribe additional procedures as may be necessary to conduct the referendum. At the close of the established referendum period, the director shall tabulate the ballots filed during the period. If at least 40 percent of the total number of producers from the list established by the director, participate in the referendum, the director shall suspend the operation of this chapter, if he or she finds either one of the following:

(a) Sixty-five percent or more of the producers who voted in the referendum voted in favor of suspension, and the producers so voting marketed a majority or more of the total quantity of wheat marketed in the preceding marketing season by all of the producers who voted in the referendum.

(b) That a majority or more of the producers who voted in the referendum voted in favor of suspension, and that the producers so voting marketed 65 percent or more of the total quantity of wheat marketed in the preceding season by all of the producers who voted in the referendum.

SEC. 28. Section 72133.5 is added to the Food and Agricultural Code, to read:

72133.5. (a) The director shall terminate the commission at the end of the current marketing season if requested in writing, within a 90-day period, by at least 51 percent of the eligible producers who are directly affected and who produce at least 51 percent of the volume of the product.

(b) The person or persons originating the request shall file a written notice with the director in a manner that establishes the date a request is initiated. Any person may withdraw his or her name for the petition requesting the termination prior to the time the request is presented to the director. The signatures to the petition requesting the termination need not all be appended to one sheet of paper. Each person signing the petition shall add to his or her signature his or her place of business, giving the street and number. If no street and number exist, then a designation of the place of business shall be given which will enable the location to be readily ascertained.

(c) The petition shall bear a copy of the notice of intention. Signatures shall be secured within the time limit specified in this section.

SEC. 28.5. Section 72134 of the Food and Agricultural Code is amended to read:

72134. After the effective date of suspension of the operation of this chapter and of the operations of the commission, the operations

of the commission shall be concluded and any and all moneys remaining held by the commission, collected by assessment and not required to defray the expenses of concluding and terminating operations of the commission, shall be returned upon a pro rata basis to all persons from whom assessments were collected in the immediately preceding current marketing season. However, if the commission finds that the amounts so returnable are so small as to make impractical the computation and remitting of the pro rata refund to those persons, any moneys remaining and any moneys remaining after payment of all expenses of winding up and terminating operations shall be withdrawn from the approved depository and paid into an appropriate state or federal program involved in activities authorized in this chapter. If no such program exists, the funds shall be paid into the State Treasury as unclaimed trust moneys.

SEC. 29. Section 75030 of the Food and Agricultural Code is amended to read:

75030. "Handler" means the first person who either (a) sorts, grades, candles, or packages shell eggs, or (b) processes shell eggs into egg products; and who engages in the operation of selling or marketing eggs or egg products which he or she has produced, purchased, or acquired from a producer, or which he or she is marketing on behalf of a producer, whether as owner, agent, employee, or broker or otherwise. When the handler is a corporation, all of the directors and officers of the corporation in their capacity as individuals shall be included, and any liability for failure to collect or make payment of assessments of which a corporate handler may be subject pursuant to this chapter shall include identical liability upon each individual director or officer of the corporation. However, "handler" does not include a retailer, except a retailer who purchases or acquires from, or handles on behalf of, any producer eggs or egg products which were not previously subject to regulation by the commission.

SEC. 30. Section 75153 of the Food and Agricultural Code is amended to read:

75153. (a) The commission may commence civil actions and utilize all remedies provided in law or equity for the collection of assessments and civil penalties, and for the obtaining of injunctive relief or specific performance, with respect to this chapter and the rules and regulations adopted under this chapter. A court shall issue to the commission any requested writ of attachment or injunctive relief upon a prima facie showing by verified complaint that a named defendant has violated this chapter or any other rule or regulation of the commission, including, but not limited to, the nonpayment of assessments. No bond shall be required to be posted by the commission as a condition for the issuance of any writ of attachment or injunctive relief. A writ of attachment shall be issued pursuant to Chapter 5 (commencing with Section 485.010) of Title 6.5 of Part 2 of the Code of Civil Procedure, except that the showing specified by

Section 485.010 is not required. Injunctive relief shall be issued pursuant to Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, except that the showing of irreparable harm or of inadequate remedy at law specified by Section 526 or 527 is not required.

Upon entry of any final judgment on behalf of the commission against any defendant, the court shall enjoin the defendant from conducting any type of business regarding the commodity subject to this chapter until there is full compliance with and satisfaction of the judgment.

(b) Except in a proceeding to determine whether the director acted arbitrarily or capriciously in restricting the activities or functions of the commission, upon a favorable verdict for the commission, the commission is entitled to receive reimbursement for any reasonable attorney's fees and other actual related costs.

(c) Venue for these actions may be established at the domicile or place of business of the defendant or in the county of the principal office of the commission. The commission may be sued only in the county of its principal office.

SEC. 31. Section 76004 of the Food and Agricultural Code is amended to read:

76004. It is hereby declared to be the policy of this state to aid in preventing economic waste in the marketing of cherries, to develop more efficient and equitable methods in marketing, and to provide production research, and to carry out the purposes and policies of this chapter.

SEC. 32. Section 76026 of the Food and Agricultural Code is amended to read:

76026. "Grower-handler" means any person who engages in the operation of selling, marketing, or distributing cherries which he or she has produced. When the grower-handler is a corporation, all the directors and officers of the corporation in their capacity as individuals are included, and any liability for failure to collect or make payment of assessments to which a corporate grower-handler may be subject pursuant to this chapter includes the same liability for each individual director or officer of the corporation.

SEC. 33. Section 76027 of the Food and Agricultural Code is amended to read:

76027. "Shipper" means any person who engages in the operation of selling, marketing, handling, or distributing cherries which he or she has purchased or acquired from a producer, or which he or she is marketing on behalf of a producer, whether as owner, agent, employee, broker, or otherwise. When the shipper is a corporation, all the directors and officers of the corporation in their capacity as individuals are included, and any liability for failure to collect or make payment of assessments to which a corporate shipper may be subject pursuant to this chapter includes the same liability for each individual director or officer of the corporation.

"Shipper" does not include a retailer, except a retailer who

purchases or acquires from, or handles on behalf of any producer, cherries which were not previously subject to regulation by the commission.

SEC. 34. Section 76029 of the Food and Agricultural Code is amended to read:

76029. "Processor" means every person and every plant within this state to whom or to which cherries are delivered for the purpose of drying, dehydrating, canning, pressing, brining, crushing, extracting, cooking, quick freezing, or for use in producing or manufacturing a product or manufactured article. When the processor is a corporation, all the directors and officers of the corporation in their capacity as individuals are included, and any liability for failure to collect or make payment of assessments to which a corporate processor may be subject pursuant to this chapter includes the same liability for each individual director or officer of the corporation.

SEC. 35. Section 76030 of the Food and Agricultural Code is amended to read:

76030. "Marketing research" means any research relating to the marketing of cherries.

SEC. 36. Section 76031 of the Food and Agricultural Code is amended to read:

76031. "Marketing season" or "fiscal year" means the period beginning on April 1 of any year and extending through March 31 of the next year.

SEC. 37. Section 76033 of the Food and Agricultural Code is amended to read:

76033. "Producer" or "grower" means any person who is engaged within this state in the business of producing or causing to be produced on land totaling more than one acre, either for fresh market or for processing, cherries of any variety, and who upon request, provides proof of commodity sale. For purposes of voting, "producer" or "grower" does not include a person who purchases a cherry crop on the tree, and the right to vote remains with the person selling the cherry crop on the tree to the purchaser.

SEC. 38. Section 76051 of the Food and Agricultural Code is amended to read:

76051. (a) There is in state government the California Cherry Commission. The commission is composed of eight cherry producers or grower-handlers who are not shippers, two cherry shippers, and one public member. Producers and grower-handlers within the respective districts shall elect two producers or grower-handlers from District 1, one producer or grower-handler from District 2, three producers or grower-handlers from District 3, one producer or grower-handler from District 4, and one producer or grower-handler from District 5.

(b) Cherry shippers shall elect two shipper members.

(c) The public member shall be appointed to the commission by the director from nominees recommended by the commission.

(d) The director and other appropriate individuals as determined by the commission shall be ex officio members of the commission.

SEC. 39. Section 76055 of the Food and Agricultural Code is amended to read:

76055. The commission or the director may bring an action for judicial relief from the director's written notice, or from noncompliance by the commission with the written notice, as the case may be, in a court of competent jurisdiction, which may issue a temporary restraining order, permanent injunction, or other applicable relief.

SEC. 40. Section 76059 of the Food and Agricultural Code is amended to read:

76059. (a) Any producer member, grower-handler member, or the member's alternate on the commission shall be an individual or an employee representing a producer who has a financial interest in producing, or causing to be produced, cherries for market or processing. The qualifications of a producer member, grower-handler member, and an alternate producer or grower-handler member shall be maintained during the entire term of office.

(b) Any shipper member or his or her alternate shall be an individual or an employee representing a shipper who has a financial interest in handling cherries for market or processing. The qualifications of a shipper member and an alternate shipper member shall be maintained during the entire term of office.

(c) Not more than one producer member, grower-handler member, or shipper member shall be a person employed by, or connected in a proprietary capacity with, the same corporation, firm, partnership, association, or business organization.

SEC. 41. Section 76060 of the Food and Agricultural Code is amended to read:

76060. The public member or his or her alternate on the commission, shall have all the powers, rights, and privileges of any other member on the commission. The public member shall not have any financial interest in the cherry industry.

SEC. 42. Section 76061 of the Food and Agricultural Code is amended to read:

76061. The term of office of all members of the commission, except any ex officio member, shall be two years from the date of their election and until their successors are qualified. However, of the first members of the commission, one-half of the producers or grower-handlers and shippers shall serve for one year, and one-half of the producers or grower-handlers and shippers shall serve for two years, with the determination of term of each such member to be made by lot at the time of election. Terms of office of each commissioner shall be limited to four consecutive terms, except that any member selected for a one-year term may serve not more than five consecutive terms.

SEC. 43. Section 76065 of the Food and Agricultural Code is

amended to read:

76065. No member of the commission or member of a committee established by the commission shall receive a salary. Each member of the commission, except ex officio government members, and each member of a committee established by the commission who is a nonmember of the commission may receive a sum of not to exceed one hundred dollars ($100) per day, as established by the commission, for each day spent in actual attendance at, or in traveling to and from, meetings of the commission or committees of the commission, or on special assignment for the commission, as approved by the commission, together with the necessary traveling expenses and meal allowances, as approved by the commission.

SEC. 44. Section 76067 of the Food and Agricultural Code is amended to read:

76067. (a) The state is not liable for the acts of the commission or its contracts. Payments of all claims arising by reason of the administration of this chapter or acts of the commission shall be limited to the funds collected by the commission.

(b) No member of the commission or alternate member, or any employee or agent therefor, shall be personally liable on the contracts of the commission; be responsible individually in any way to any producer, processor, shipper, or grower-handler, or any other person for error in judgment, mistakes, or other acts, either of commission or omission, as principal, agent, or employee, except for his or her own individual acts of dishonesty or crime; or be held responsible individually for any act or omission of any member of the commission. Liability shall be several and not joint, and no member of the commission shall be liable for the default of any other member of the commission.

SEC. 45. Section 76082 of the Food and Agricultural Code is amended to read:

76082. The commission may adopt and from time to time alter, rescind, modify, and amend all proper and necessary bylaws, rules, regulations, operating procedures, and orders for carrying out the provisions of this chapter, including rules for appeals from any bylaw, rule, regulation, operating procedure, or order of the commission.

SEC. 46. Section 76083 of the Food and Agricultural Code is amended to read:

76083. The commission may administer and enforce this chapter, and do and perform all acts and exercise all powers incidental to, or in connection with, or deemed reasonably necessary for, proper or advisable effectuation of the purposes of this chapter. The commission may, in this connection, enter into contracts for services with public and private agencies as the commission determines is necessary to carry out this chapter.

SEC. 47. Section 76085 of the Food and Agricultural Code is amended to read:

76085. The commission may 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 the provisions of this chapter. The commission may retain a management firm or the staff from any board, commission, or committee of the state to perform the functions prescribed by this section under the control of the commission. If the person engages in any conduct which the director determines is not in the public interest or which is in violation of this chapter, the director shall notify the commission of the conduct and request that corrective and, if appropriate, disciplinary action be taken by the commission.

(b) In the event that the commission fails or refuses to correct the situation or to take disciplinary action satisfactory to the director, the director may suspend or discharge the person.

SEC. 48. Section 76088 of the Food and Agricultural Code is amended to read:

76088. The commission may establish offices, incur expenses, enter into contracts and agreements, 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.

SEC. 49. Section 76089 of the Food and Agricultural Code is amended to read:

76089. (a) The commission shall keep accurate books, records, and accounts of all its dealings, which shall be subject to an annual audit by an auditing firm selected by the commission with the concurrence of the director.

(b) A summary of the audit shall be made a part of an annual report to all producers of cherries, copies of which shall also be submitted to the Legislature and the department. In addition, the director may, as determined necessary, conduct or cause to be conducted a fiscal and compliance audit of the commission.

SEC. 50. Section 76091 of the Food and Agricultural Code is amended to read:

76091. The commission may educate and instruct the wholesale and retail trade with respect to proper methods of handling and selling cherries; make market surveys and analyses; present facts to, and negotiate with, state, federal, and foreign agencies on matters which affect the provisions of this chapter.

SEC. 51. Section 76092 of the Food and Agricultural Code is amended to read:

76092. The commission may 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 carrying out the purposes of this chapter.

SEC. 52. Section 76093 of the Food and Agricultural Code is amended to read:

76093. The commission may conduct and contract with others to conduct scientific research, including the study, analysis,

dissemination, and accumulation of information obtained from research or elsewhere, regarding this chapter. In connection with the research, the commission may accept contributions of, or match, private, state, or federal funds that may be available for its purposes, and employ or make contributions of funds to other persons or state or federal agencies conducting the research.

SEC. 53. Section 76094 of the Food and Agricultural Code is amended to read:

76094. The commission may publish and distribute, without charge, a bulletin or other communication for dissemination of information to producers, shippers, grower-handlers, and processors.

SEC. 54. Section 76097 of the Food and Agricultural Code is amended to read:

76097. The commission shall submit to the director, for his or her concurrence, an annual statement of contemplated activities authorized under this chapter.

SEC. 55. Section 76111 of the Food and Agricultural Code is amended to read:

76111. (a) Within 90 days after a request by the proponents of the commission, or as soon thereafter as possible, the director shall establish a list of producers eligible to vote on implementation of this chapter. In establishing the list, the director may require that processors, shippers, county agricultural commissioners, cherry producers and others, submit the names and mailing addresses of all producers. The director may also require that the information provided include the quantity of cherries marketed by producers and their district members or, in the alternative, may establish procedures for receiving the information at the time of the vote specified in Section 76112. The request for the information shall be in writing. The information shall be filed within 30 days following receipt of the written notice.

(b) Any producer whose name does not appear upon the director's list may have his or her name established on the list by filing with the director a signed statement, identifying himself or herself as a producer. Failure to be on the list does not exempt the producer from paying assessments.

SEC. 56. Section 76112 of the Food and Agricultural Code is amended to read:

76112. This chapter, except as necessary to conduct an implementation referendum vote, shall not become operative until the director finds, in a referendum conducted by the director, that at least 40 percent of the total number of producers from the list established by the director pursuant to this article participated and that either of the following occurred.

(a) Sixty-five percent or more of the producers who voted in the referendum voted in favor of the provisions of this chapter, and the producers so voting marketed a majority of the total quantity of cherries in the preceding season by all of the producers who voted in the referendum.

(b) A majority of the producers who voted in the referendum voted in favor of the provisions of this chapter, and the producers so voting marketed 65 percent or more of the total quantity of cherries in the preceding season by all of the producers who voted in the referendum.

SEC. 57. Section 76115 of the Food and Agricultural Code is amended to read:

76115. If the director finds that a favorable vote has been given as provided in this article, he or she shall certify and declare this chapter operative and give notice of the favorable vote to all producers whose names and addresses are on file with the director.

SEC. 58. Section 76116 of the Food and Agricultural Code is amended to read:

76116. If the director finds that a favorable vote has not been given as provided in this article, he or she shall so certify and declare that this chapter is not operative. The director may conduct another implementation referendum vote one year or more after the previous vote has been taken.

SEC. 59. Section 76117 of the Food and Agricultural Code is amended to read:

76117. Upon certification of the commission, the director shall contact, by mail, every producer and grower-handler in each district and every shipper or shall call meetings of producers and grower-handlers in each district for the purpose of nominating and electing persons for appointment to the commission . All producers, grower-handlers, and shippers on the director's list shall be given written notice of any meeting at least 15 days prior to the meeting date.

SEC. 60. Section 76119 of the Food and Agricultural Code is amended to read:

76119. Subsequent to the first election of members of the commission pursuant to this chapter, persons to be elected to the commission shall be selected pursuant to the nomination and election procedures established by the commission with the concurrence of the director.

SEC. 61. Section 76120 of the Food and Agricultural Code is amended to read:

76120. (a) Prior to the referendum vote conducted by the director pursuant to this article, the proponents of the commission shall deposit with the director any amounts that the director may deem necessary to defray the expenses of preparing the necessary lists and information and conducting the vote. Any funds not used in carrying out the provisions of this article shall be returned to the proponents of the commission who deposited the funds with the director.

(b) Upon establishment of the commission, the commission is authorized to reimburse the proponents of the commission for any funds deposited with the director which were used in carrying out the provisions of this article, and for any legal expenses and costs

incurred in establishing the commission.

SEC. 62. Section 76141 of the Food and Agricultural Code is amended to read:

76141. (a) The commission shall, not later than April 20 of each year, establish the assessment for the following marketing season, which shall not exceed fifteen cents ($0.15) per 18-pound container or its equivalent in volume in fresh shipping cherries, or three-tenths of one cent ($0.003) per pound for processing cherries.

(b) A fee greater than that specified in subdivision (a) may be charged only if approved by producers pursuant to Section 76112.

SEC. 63. Section 76142 of the Food and Agricultural Code is amended to read:

76142. This chapter does not apply to cherries produced for the producer's home use, to cherries used only for ornamental purposes, or to cherries grown on land totaling one acre or less by a person who is not a producer for purposes of this chapter. However, a person subject to this section shall file an affidavit with the commission establishing that his or her cherries are exempt from this chapter.

SEC. 64. Section 76145 of the Food and Agricultural Code is amended to read:

76145. Assessments shall be upon the producer. The first shipper, grower-handler, or processor of cherries being assessed shall deduct the assessment from amounts paid by him or her to the producer, and shall be a trustee of the funds until they are paid to the commission at the time and in the manner prescribed by the commission.

SEC. 65. Section 76147 of the Food and Agricultural Code is amended to read:

76147. Any assessment which is levied as provided for in this chapter, is a personal debt of every producer so assessed. Failure of a processor, shipper, or grower-handler to collect the assessment does not relieve the producer of the obligation to pay the assessment.

SEC. 66. Section 76161 of the Food and Agricultural Code is amended to read:

76161. It is unlawful to do any of the following:

(a) Willfully render or furnish a false report, statement, or record required by the commission.

(b) When engaged in the shipping, processing or handling of cherries, or in the wholesale or retail trade of cherries, to fail or refuse to furnish the commission or its duly authorized agents, upon request, information concerning the name and address of the persons from whom cherries have been received and the quantity received.

(c) Secrete, destroy, or alter records required to be kept under this chapter.

SEC. 67. Section 76163 of the Food and Agricultural Code is amended to read:

76163. (a) The commission may commence civil actions and utilize all remedies provided in law or equity for the collection of assessments and civil penalties, and for the obtaining of injunctive

relief or specific performance, respecting this chapter and the rules and regulations adopted under this chapter.

(b) A court shall issue to the commission any requested writ of attachment or injunctive relief upon a prima facie showing by verified complaint that a named defendant has violated this chapter or any rule or regulation of the commission, including, but not limited to, the nonpayment of assessments. No bond shall be required to be posted by the commission as a condition for the issuance of any writ of attachment or injunctive relief. A writ of attachment shall be issued pursuant to Chapter 5 (commencing with Section 485.010) of Title 6.5 of Part 2 of the Code of Civil Procedure, except that the showing required by Section 485.010 is not required. Injunctive relief shall be issued pursuant to Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, except that the showing of irreparable harm or of inadequate remedy at law specified by Sections 526 or 527 is not required.

(c) Upon entry of any final judgment on behalf of the commission against any defendant, the court shall enjoin the defendant from conducting any type of business regarding the commodity subject to this chapter until there is full compliance with and satisfaction of the judgment.

(d) Upon a favorable verdict for the commission, the commission may receive reimbursement for any reasonable attorney's fees and other actual related costs. Venue for these actions may be established at the domicile or place of business of the defendant or in the county of the principal office of the commission. The commission may be sued only in the county of its principal office.

SEC. 68. Section 76181 of the Food and Agricultural Code is amended to read:

76181. Except as otherwise specified in this article, the commission shall cause a referendum to be conducted among producers pursuant to Article 5 (commencing with Section 76111) every five years following implementation of this chapter to determine whether the operation of this chapter is reapproved and shall be continued in effect. The vote shall be declared in favor of continuation if the director determines from the referendum that a majority of the eligible producers voting in the referendum voted to continue the operation of this chapter. If the director finds that a favorable vote has been given, he or she shall so certify and all provisions of this chapter shall remain effective. If the director finds that a favorable vote has not been given, he or she shall so certify and declare the operation of the provisions of this chapter and the commission suspended upon expiration of the marketing season ending December 31, 1990. Thereupon, the operations of the commission shall be concluded and funds distributed in the manner provided in Section 76184. No bond or security shall be required for any such referendum.

SEC. 69. Section 76182 of the Food and Agricultural Code is amended to read:

76182. If a referendum is conducted as the result of a petition pursuant to Section 76183, it shall be conducted every fifth year following the industry petitioned referendum.

SEC. 70. Section 76183 of the Food and Agricultural Code is amended to read:

76183. Upon a finding by a two-thirds vote of the commission that the operation of this chapter has not tended to effectuate its declared purposes, the commission may recommend to the director that the operation of this chapter be suspended. No suspension shall become effective until the expiration of the current marketing season. The director shall, upon receipt of the recommendation, or may, after a public hearing to review a petition filed with him or her requesting the suspension, signed by 20 percent of the producers by number who produced not less than 20 percent of the volume in the immediately preceding season, cause a referendum to be conducted among the producers to determine if the operation of this chapter shall be suspended. However, the director shall not cause a referendum to be conducted as a result of the petition unless the petitioner shows by the weight of evidence that the operation of this chapter has not tended to effectuate its declared purposes. The director shall establish a referendum period, which shall not be less than 10 nor more than 60 days in duration. The director may prescribe any additional procedures that may be necessay to conduct the referendum. At the close of the established referendum period, the director shall tabluate the ballots filed during the period. If at least 40 percent of the total number of producers from the list established by the director participate in the referendum, the director shall suspend the operation of this chapter, if he or she finds either one of the following has occurred:

(a) Sixty-five percent or more of the producers who voted in the referendum voted in favor of suspension, and the producers so voting marketed a majority of the total quantity of cherries marketed in the preceding marketing seasons by all of the producers who voted in the referendum.

(b) A majority of the producers who voted in the referendum voted in favor of suspension, and the producers so voting marketed 65 percent or more of the total quantity of cherries marketed in the preceding season by all of the producers who voted in the referendum.

SEC. 70.5. Section 76183.5 is added to the Food and Agricultural Code, to read:

76183.5. (a) The director shall terminate the commission at the end of the current marketing season if requested in writing, within a 90-day period, by at least 51 percent of the eligible producers who are directly affected and who produce at least 51 percent of the volume of the product.

(b) The person or persons originating the request shall file a written notice with the director in a manner that establishes the date a request is initiated. Any person may withdraw his or her name for

the petition requesting the termination prior to the time the request is presented to the director. The signatures to the petition requesting the termination need not all be appended to one sheet of paper. Each person signing the petition shall add to his or her signature his or her place of business, giving the street and number. If no street and number exist, then a designation of the place of business shall be given which will enable the location to be readily ascertained.

(c) The petition shall bear a copy of the notice of intention. Signatures shall be secured within the time limit specified in this section.

SEC. 71. Section 76184 of the Food and Agricultural Code is amended to read:

76184. After the effective date of suspension of the operation of this chapter, the operations of the commission shall be concluded and any and all moneys remaining held by the commission, collected by assessments and not required to defray the expenses of concluding and terminating operations of the commission, shall be returned upon a pro rata basis to all persons from whom assessments were collected in the immediately preceding current marketing season. However, if the commission finds that the amounts so returnable are so small as to make impractical the computation and remitting of the pro rata refund to these persons, any such moneys remaining and any moneys remaining after payment of all expenses of winding up and terminating operations shall be withdrawn from the approved depository and paid into the University of California for continued research on cherries.

SEC. 72. No reimbursement is required by this act pursuant to 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 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. 73. This act is an urgency statute necessary for the immediate preservation of 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 various segments of California agriculture are able to market and research their products in an efficient and effective manner so as to ensure an adequate supply of these products to the residents of this state, it is necessary that this act take effect immediately.

CHAPTER 1005

An act to add and repeal Section 4138 to the Welfare and Institutions Code, relating to mental health.

[Approved by Governor September 25, 1985 Filed with Secretary of State September 26, 1985]

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

SECTION 1. Section 4138 is added to the Welfare and Institutions Code, to read:

4138. (a) It is the intent of the Legislature that beds in state hospitals serving mentally disordered persons be allocated to local programs for the mentally disordered in a reasonable manner that takes needs into consideration, particularly the needs of certain counties with limited population, financial resources, and capacity for providing secured care.

(b) For a county with a population of 150,000 or less as recorded in the 1980 federal census and if the conditions in subdivisions (d) and (e) are met, up to two patients utilizing state hospital days for two years or more under conservatorship shall not apply towards that county's allocation of state hospital days, except that no conservatee shall remain in the state hospital solely to qualify for this exception.

(c) Funding for this section shall be from the appropriation for state hospital beds for the mentally disordered in the annual Budget Act.

(d) To be eligible to participate in the provisions of subdivision (b), the county shall submit a plan to the Director of Mental Health showing how the county intends to develop, or cause to be developed, local or regional community alternatives for the treatment and security of all or any of that county's mental health patients who are either currently state hospital residents or who meet state hospital admission criteria.

(e) Prior to a conservatee becoming eligible for the exception set forth in subdivision (b), a determination shall be made jointly by the county and the department that placement in a state hospital is clinically appropriate.

Written notification to the county mental health director by the department specifying reasons for department opposition to an exception shall be made.

This section shall remain in effect only until January 1, 1989, and on that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1989, deletes or extends that date.

CHAPTER 1006

An act to add Section 65354.5 to the Government Code, relating to land use planning.

[Approved by Governor September 25, 1985 Filed with Secretary of State September 26, 1985]

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

SECTION 1. Section 65354.5 is added to the Government Code, to read:

65354.5. (a) A city or county with a planning agency, other than the legislative body itself, which has the authority to consider and recommend the approval, conditional approval, or disapproval of a proposed amendment to a general plan, shall establish procedures for any interested party to file a written request for a hearing by the legislative body with its clerk within five days after the planning agency acts on the proposed amendment. Notice of the hearing shall be given pursuant to Section 65090.

(b) The legislative body may establish a fee to cover the cost of establishing the procedures and conducting the hearing pursuant to subdivision (a). The legislative body shall impose the fee pursuant to Chapter 13 (commencing with Section 54990) of Part 1 of Division 2 of Title 5.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution 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 1007

An act to amend Section 22651 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 25, 1985 Filed with Secretary of State September 26, 1985.]

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

SECTION 1. Section 22651 of the Vehicle Code is amended to read:

22651. Any peace officer, as 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 the 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 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. Only a peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, may remove a vehicle from a highway pursuant to this subdivision. For purposes of this subdivision, the 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.

CHAPTER 1008

An act to amend Sections 4762, 4763, 14401, 40509, 40509.5, and 41103.5 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 25, 1985 Filed with Secretary of State September 26, 1985]

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

SECTION 1. Section 4762 of the Vehicle Code is amended to read:

4762. The department shall remit all bail collected, after deducting the administrative service fee authorized by Section 4763, for each notice of violation for which bail has been collected pursuant to Section 4760, to each jurisdiction in the amounts due to each jurisdiction according to its unadjudicated notices of violation, and shall inform each jurisdiction of which of its notices have been discharged by deposit of the appropriate amounts of bail.

SEC. 1.5. Section 4762 of the Vehicle Code is amended to read:

4762. The department shall remit all bail collected, after deducting the administrative service fee authorized by Section 4763, for each notice of violation for which bail has been collected pursuant to Section 4760, to each jurisdiction in the amounts due to each jurisdiction according to its unadjudicated notices of violation. Within 45 days from the time bail is recorded by the department, the department shall inform each jurisdiction of which of its notices have been discharged by deposit of the appropriate amounts of bail.

SEC. 2. Section 4763 of the Vehicle Code is amended to read:

4763. The department shall assess a fee for the recording of the notice of failure to appear for a parking violation, which is given to the department pursuant to subdivision (a) of Section 41103.5, in an amount, as determined by the department, that is sufficient to provide a total amount equal to its actual costs of administering Sections 4760, 4761, 4762, 4764, 4765, and 41103.5.

SEC. 3. Section 14401 of the Vehicle Code is amended to read:

14401. (a) Any action brought in a court of competent jurisdiction to review any order of the department refusing, canceling, placing on probation, suspending, or revoking the privilege of a person to operate a motor vehicle shall be commenced

within 90 days from the date the order is noticed.

(b) Upon final completion of all administrative appeals, the person whose driving privilege was refused, canceled, placed on probation, suspended, or revoked shall be given written notice by the department of his or her right to a review by a court pursuant to subdivision (a).

SEC. 4. Section 40509 of the Vehicle Code is amended to read:

40509. (a) Whenever any person has for a period of 15 or more days violated his or her written promise to appear or a lawfully granted continuance of his or her promise to appear in court or before the person authorized to receive a deposit of bail or violated an order to appear in court, the magistrate or clerk of the court may give notice of the fact to the department for any violation of this code which is required to be reported pursuant to Section 1803. The notice shall be given within 60 days of the failure to appear. Whenever thereafter the case in which the promise was given is adjudicated or the person who has violated the court order appears in court or otherwise satisfies the order of the court, the magistrate or clerk of the court hearing the case shall sign and file with the department a certificate to that effect.

(b) Whenever any person has for a period of 15 or more days willfully failed to pay a lawfully imposed fine within the time authorized by the court or to pay a fine pursuant to subdivision (a) of Section 42003, the magistrate or clerk of the court may give notice of the fact to the department for any violation which is required to be reported pursuant to Section 1803. Whenever thereafter the fine is fully paid, the magistrate or clerk of the court shall sign and file with the department a certificate showing that the fine has been paid.

(c) This section is applicable to any court which has not elected to be subject to the notice requirements of subdivision (b) of Section 40509.5.

SEC. 5. Section 40509.5 of the Vehicle Code is amended to read:

40509.5. (a) Whenever, with respect to an offense described in subdivision (c), any person has for a period of 15 or more days violated his or her written promise to appear or a lawfully granted continuance of his or her promise to appear in court or before the person authorized to receive a deposit of bail or violated an order to appear in court, the magistrate or clerk of the court may give notice of the fact to the department for any violation of this code which is required to be reported pursuant to Section 1803. The notice shall be given within 60 days of the failure to appear. Whenever thereafter the case in which the promise was given is adjudicated or the person who has violated the court order appears in court or otherwise satisfies the order of the court, the magistrate or clerk of the court hearing the case shall sign and file with the department a certificate to that effect.

(b) The court shall mail a courtesy warning notice to the defendant by first-class mail at the address shown on the notice to

appear, at least 10 days before sending a notice to the department under this section.

(c) If the court notifies the department of a failure to appear pursuant to this section, no arrest warrant shall be issued for an alleged violation of subdivision (a) Section 40508 or of a court order issued pursuant to subdivision (a) of Section 42003, unless one of the following criteria are met:

(1) The alleged underlying offense is a misdemeanor or felony.

(2) The alleged underlying offense is a violation of any provision of Division 12 (commencing with Section 24000), Division 13 (commencing with Section 29000), or Division 15 (commencing with Section 35000), required to be reported pursuant to Section 1803.

(3) The driver record does not show that the defendant has a valid California driver's license.

(4) The driver record shows an unresolved charge that the defendant is in violation of his or her written promise to appear for one or more other alleged violations of the law.

(d) This section is applicable to courts which have elected to provide notice pursuant to subdivision (b). The method of commencing or terminating an election to proceed under this section shall be prescribed by the department.

SEC. 6. Section 41103.5 of the Vehicle Code is amended to read:

41103.5. (a) Whenever any person has for a period of 15 or more days failed to answer the charge in the notice of a parking violation given, or file an affidavit of nonownership, pursuant to subdivision (b) of Section 41103, the magistrate or clerk of the court or the officer of the issuing agency designated by the magistrate or clerk of the court shall give notice of that fact to the department if no warrant of arrest is outstanding in connection with the matter. The notice shall be given not more than 30 days after the failure to appear. Whenever thereafter the case, in which the notice of a parking violation was given pursuant to subdivision (b) of Section 41103, is adjudicated, the magistrate or clerk of the court hearing the case shall immediately sign a certificate to that effect, provide the person charged or that person's representative with a copy, and file a copy of the certificate with the department.

(b) The procedure for the collection of bail authorized by this section and Sections 4760 to 4765, inclusive, shall apply to any registration or equipment infraction charged simultaneously with any parking violation in any notice of a parking violation issued to an unattended vehicle under subdivision (a) of Section 41103.

SEC. 7. Section 1.5 of this bill incorporates amendments to Section 4762 of the Vehicle Code proposed by both this bill and AB 1652. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1986, (2) each bill amends Section 4762 of the Vehicle Code, and (3) this bill is enacted after AB 1652, in which case Section 1 of this bill shall not become operative.

CHAPTER 1009

An act to add Article 1.4 (commencing with Section 17511) to Chapter 1 of Part 3 of Division 7 of the Business and Professions Code, relating to sales.

[Approved by Governor September 25, 1985 Filed with Secretary of State September 26, 1985]

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

SECTION 1. Article 1.4 (commencing with Section 17511) is added to Chapter 1 of Part 3 of Division 7 of the Business and Professions Code, to read:

Article 1.4. Telephonic Sellers

17511. (a) The Legislature finds and declares that the widespread use of telephone solicitors to initiate sales of goods, real property, and investment opportunities has created numerous problems for purchasers and investors which are inimical to good business practices. Telephonic sales have a significant impact upon the economy and well-being of this state and its local communities. However, purchasers have suffered substantial losses because of (1) misrepresentations, (2) lack of full and complete information regarding both the telephonic seller and the goods and investments the telephonic seller is offering, and (3) failure of delivery. The provisions of this article relating to telephonic sellers are necessary for the public welfare.

(b) It is the intent of the Legislature in enacting this article to (1) provide each prospective telephonic sales purchaser with information necessary to make an intelligent decision regarding the offer made, (2) safeguard the public against deceit and financial hardship, (3) insure, foster, and encourage competition and fair dealings among telephonic sellers by requiring adequate disclosure, and (4) prohibit representations that tend to mislead. This article shall be construed liberally in order to achieve these purposes.

17511.1. As used in this article, "telephonic seller" or "seller" means a person who, on his or her own behalf or through salespersons or through the use of an automatic dialing-announcing device, as defined in Section 2871 of the Public Utilities Code, causes a telephone solicitation or attempted telephone solicitation to occur which meets the criteria specified in subdivision (a) or (b) and who is not exempted by subdivision (c), as follows:

(a) A telephone solicitation or attempted telephone solicitation wherein the telephonic seller initiates telephonic contact with a prospective purchaser and represents or implies one or more of the following:

(1) That a prospective purchaser who buys one or more items will

also receive additional or other items, whether or not of the same type as purchased, without further cost. For purposes of this subdivision, "further cost" does not include actual postage or common carrier delivery charges, if any.

(2) That a prospective purchaser will receive a prize or gift, if the person also encourages the prospective purchaser to do either of the following:

(A) Purchase or rent any goods or services.

(B) Pay any money, including, but not limited to, a delivery or handling charge.

(3) That a prospective purchaser who buys office equipment or supplies will, because of some unusual event or imminent price increase, be able to buy these items at prices which are below those that are usually charged or will be charged for the items.

(4) That the seller is a person other than the person he or she is.

(5) That the items for sale are manufactured or supplied by a person other than the actual manufacturer or supplier.

(6) That the seller is offering to sell the prospective purchaser any gold, silver, or other metals, diamonds, rubies, sapphires, or other stones, coal or other minerals, or any interest in oil, gas, or mineral fields, wells, or exploration sites.

(b) A solicitation or attempted solicitation which is made by telephone in response to inquiries generated by advertisements on behalf of the telephonic seller wherein it is represented or implied that the seller is offering to sell to the prospective purchaser any gold, silver, or other metals, diamonds, rubies, sapphires, or other stones, coal or other minerals, or any interest in oil, gas, or mineral fields, wells, or exploration sites.

(c) For purposes of this article, "telephonic seller" or "seller" does not include any of the following:

(1) A person selling a security which has been qualified for sale by the Department of Corporations pursuant to Division 1 (commencing with Section 25000) of Title 4 of the Corporations Code, or which is exempt under Chapter 1 (commencing with Section 25100) of Part 2 of Division 1 of Title 4 of the Corporations Code from the necessity to qualify.

(2) A person licensed pursuant to Part 1 (commencing with Section 10000) of Division 4, when the solicited transaction is governed by that law.

(3) A person licensed pursuant to Chapter 9 (commencing with Section 7000) of Division 3, when the solicited transaction is governed by that law.

(4) A person licensed or certificated pursuant to Part 2 (commencing with Section 680) of Division 1 of the Insurance Code, including a person licensed pursuant to Chapter 5 (commencing with Section 1621) thereof, when the solicited transaction is governed by that law.

(5) A person soliciting the sale of a franchise which is registered pursuant to Division 5 (commencing with Section 31000) of Title 4

of the Corporations Code with the Department of Corporations or is exempt under Chapter 1 (commencing with Section 31100) of Part 2 of Division 5 of Title 4 of the Corporations Code from the necessity of registering.

(6) A person soliciting the sale of a seller assisted marketing plan, as defined in Title 2.7 (commencing with Section 1812.200) of Part 4 of Division 3 of the Civil Code, who has filed with the Secretary of State the documents required by Section 1812.203 of the Civil Code.

(7) A person primarily soliciting the sale of a newspaper of general circulation, as defined in Article 1 (commencing with Section 6000) of Chapter 1 of Division 7 of Title 1 of the Government Code, a magazine, or membership in a book or record club whose program operates in conformity with the requirements of Section 1584.5 of the Civil Code.

(8) A person soliciting business from prospective purchasers who have previously purchased from the person making the solicitation or the business enterprise for which the person is calling.

(9) A person soliciting without the intent to complete and who does not complete the sales presentation during the telephone solicitation and who only completes the sales presentation at a later face-to-face meeting between the solicitor and the prospective purchaser.

(10) Any supervised financial institution or parent, subsidiary, or affiliate thereof. As used in this paragraph, "supervised financial institution" means any commercial bank, trust company, savings and loan association, credit union, industrial loan company, personal property broker, consumer finance lender, commercial finance lender, or insurer, provided that the institution is subject to supervision by an official or agency of this state or of the United States.

(11) A person soliciting the sale of a preneed funeral arrangement regulated by Article 9 (commencing with Section 7735) of Chapter 12 of Division 3.

(12) A person licensed pursuant to Chapter 19 (commencing with Section 9600) of Division 3 when acting pursuant to that licensure.

(13) A person soliciting the sale of services provided by a cable television system licensed or franchised pursuant to Section 53066 of the Government Code or any other authority.

(14) A person or an affiliate of a person whose business is regulated by the Public Utilities Commission.

(15) A person soliciting the sale of a commodity pursuant to Part 2 (commencing with Section 58601) of Division 21 of the Food and Agricultural Code, if the solicitation neither intends to, nor actually results in, a sale which costs the purchaser in excess of one hundred dollars ($100).

(16) An issuer or subsidiary of an issuer that has a class of securities which is subject to Section 12 of the Securities Exchange Act of 1934 (15 U.S.C. Sec. 781) and which is either registered or exempt from registration under paragraph (A), (B), (C), (E), (F), (G), or (H) of

subsection (g) of that section.

(17) A person soliciting exclusively the sale of telephone answering services to be provided by that person or that person's employer.

17511.2. As used in this article, the following terms have the following meanings:

(a) "Department" means the Department of Justice.

(b) "Item" means any goods and services, and includes coupon books which are to be used with businesses other than the seller's business.

(c) "Owner" means a person who owns or controls 10 percent or more of the equity of, or otherwise has claim to 10 percent or more of the net income of, a telephonic seller.

(d) "Person" includes an individual, firm, association, corporation, partnership, joint venture, or any other business entity.

(e) "Principal" means an owner, an executive officer of a corporation, a general partner of a partnership, a sole proprietor of a sole proprietorship, a trustee of a trust, or any other individual with similar supervisory functions with respect to any person.

(f) "Purchaser" or "prospective purchaser" means a person who is solicited to become or does become obligated to a telephonic seller.

(g) "Salesperson" means any individual employed, appointed or authorized by a telephonic seller, whether referred to by the telephonic seller as an agent, representative, or independent contractor, who attempts to solicit or solicits a sale on behalf of the telephonic seller. The principals of a seller are themselves salespersons if they solicit sales on behalf of the telephonic seller.

17511.3. (a) Not less than 10 days prior to doing business in this state, a telephonic seller shall register with the department by filing with the Consumer Law Section of the department the information required by Section 17511.4 and a filing fee of fifty dollars ($50). A seller shall be deemed to do business in this state if the seller solicits prospective purchasers from locations in this state or solicits prospective purchasers who are located in this state.

The information required by Section 17511.4 shall be submitted on a form provided by the Attorney General and shall be verified by a declaration signed by each principal of the telephonic seller under penalty of perjury. The declaration shall specify the date and location of signing. Information submitted pursuant to subdivision (j) or (k) of Section 17511.4 shall be clearly identified and appended to the filing.

(b) Registration of a telephonic seller shall be valid for one year from the effective date thereof and may be annually renewed by making the filing required by Section 17511.4 and paying a filing fee of fifty dollars ($50).

(c) Whenever, prior to expiration of a seller's annual registration, there is a material change in the information required by Section 17511.4, the seller shall, within 10 days, file an addendum updating the information with the Consumer Law Section of the department.

However, changes in salespersons soliciting on behalf of a seller shall be updated by addendums filed, if necessary, in quarterly intervals computed from the effective date of registration.

(d) Upon receipt of a filing and filing fee pursuant to subdivision (a) or (b), the department shall send the telephonic seller a written confirmation of receipt of the filing. If the seller has more than one business location, the written confirmation shall be sent to the principal business location identified in the seller's filing in sufficient number so that the seller has one for each business location. The seller shall post the confirmation of receipt of filing, within 10 days of receipt thereof, in a conspicuous place at each of the seller's business locations. Until confirmation of receipt of filing is received and posted, the seller shall post in a conspicuous place at each of the seller's business locations within this state a copy of the first page of the registration form sent to the department.

17511.4. Each filing pursuant to Section 17511.3 shall contain the following information:

(a) The name or names of the seller, including the name under which the seller is doing or intends to do business, if different from the name of the seller, and the name of any parent or affiliated organization (1) that will engage in business transactions with purchasers relating to sales solicited by the seller or (2) that accepts responsibility for statements made by, or acts of, the seller relating to sales solicited by the seller.

(b) The seller's business form and place of organization and, if the seller is a corporation, a copy of its articles of incorporation and bylaws and amendments thereto, or, if a partnership, a copy of the partnership agreement, or if operating under a fictitious business name, the location where the fictitious name has been registered. All the same information shall be included for any parent or affiliated organization disclosed pursuant to subdivision (a).

(c) The complete street address or addresses of all locations, designating the principal location from which the telephonic seller will be conducting business. If the principal business location of the seller is not in this state, then the seller shall also designate which of its locations within this state is its main location in the state.

(d) A listing of all telephone numbers to be used by the seller and the address where each telephone using each of these telephone numbers is located.

(e) The name of, and the office held by, the seller's officers, directors, trustees, general and limited partners, sole proprietor, and owners, as the case may be, and the names of those persons who have management responsibilities in connection with the seller's business activities.

(f) The complete address of the principal residence and the driver's license number and state of issuance of each of the persons whose names are disclosed pursuant to subdivision (e).

(g) The name and principal residence address of each person the telephonic seller leaves in charge at each location from which the

seller does business in this state, as defined in subdivision (a) of Section 17511.3, and the business location which each of these persons is or will be in charge of.

(h) A statement, meeting the requirements of this subdivision, as to any person identified pursuant to subdivision (e) or (g) who:

(1) Has been convicted of a felony or misdemeanor involving an alleged violation of this article, or fraud, theft, embezzlement, fraudulent conversion, or misappropriation of property. For purposes of this paragraph, a plea of nolo contendere is a conviction.

(2) Has had entered against him or her a final judgment or order in a civil or administrative action, including a stipulated judgment or order, if the complaint or petition in the civil or administrative action alleged acts constituting a violation of this article, fraud, theft, embezzlement, fraudulent conversion, or misappropriation of property, the use of untrue or misleading representations in an attempt to sell or dispose of real or personal property, or the use of unfair, unlawful, or deceptive business practices.

(3) Is subject to any currently effective injunction or restrictive court order relating to business activity as the result of an action brought by a federal, state, or local public agency or unit thereof, including, but not limited to, an action affecting any vocational license.

(4) Has at any time during the previous seven tax years filed in bankruptcy, been adjudged a bankrupt, been reorganized due to insolvency, or been a principal, director, officer, trustee, general or limited partner, or had management responsibilities of any other corporation, partnership, joint venture, or business entity, that has so filed or was so adjudicated or reorganized, during or within one year after the period that the person held that position.

For purposes of paragraphs (1), (2), and (3), the statement required by this subdivision shall identify the person, the court or administrative agency rendering the conviction, judgment, or order, the docket number of the matter, the date of the conviction, judgment, or order, and the name of the governmental agency, if any, that brought the action resulting in the conviction, judgment, or order. For purposes of paragraph (4), the statement required by this subdivision shall include the name and location of the person filing in bankruptcy, adjudged a bankrupt, or reorganized due to insolvency, and shall include the date thereof, the court which exercised jurisdiction, and the docket number of the matter.

(i) A list of the names and principal residence addresses of salespersons who solicit on behalf of the telephonic seller and the names the salespersons use while so soliciting.

(j) A copy of all sales scripts the telephonic seller requires salespersons to use when soliciting prospective purchasers, or if no sales script is required to be used, a statement to that effect.

(k) A copy of all sales information and literature (including, but not limited to, scripts, outlines, instructions, and information regarding how to conduct telephonic sales, sample introductions,

sample closings, product information, and contest or premium-award information) provided by the telephonic seller to salespersons or of which the seller informs salespersons, and a copy of all written materials the seller sends to any prospective or actual purchaser.

(*l*) If the telephonic seller represents or implies, or directs salespersons to represent or imply, to purchasers that the purchaser will receive certain specific items or one or more items from among designated items, whether the items are denominated as gifts, premiums, bonuses, prizes, or otherwise, the filing shall include the following:

(1) A list of the items offered.

(2) The value or worth of each item described to prospective purchasers and the basis for the valuation.

(3) The price paid by the telephonic seller to its supplier for each of these items and the name, address, and telephone number of each item's supplier.

(4) If the purchaser is to receive fewer than all of the items described by the seller, the filing shall include the following:

(A) The manner in which the telephonic seller decides which item or items a particular prospective purchaser is to receive.

(B) The odds a single prospective purchaser has of receiving each described item.

(C) The name and address of each recipient who has, during the preceding 12 months (or if the seller has not been in business that long, during the period the telephonic seller has been in business) received the item having the greatest value and the item with the smallest odds of being received.

(5) All rules, regulations, terms, and conditions a prospective purchaser must meet in order to receive the item.

(m) If the telephonic seller is offering to sell any metal, stone, or mineral, the filing shall include the following:

(1) The name, address, and telephone number of each of the seller's suppliers and a description of each metal, stone, or mineral provided by the supplier.

(2) If possession of any metal, stone, or mineral is to be retained by the seller or will not be transferred to the purchaser until the purchaser has paid in full, the filing shall include the following:

(A) The address of each location where the metal, stone, or mineral will be kept.

(B) If not kept on premises owned by the seller or at an address or addresses set forth in compliance with subdivision (c), the name of the owner of the business at which the metal, stone, or mineral will be kept.

(C) A copy of any contract or other document which evidences the seller's right to store the metal, stone, or mineral at the address or addresses designated pursuant to subparagraph (A).

(3) If the seller is not selling the metal, stone, or mineral from its own inventory, but instead purchases the metal, stone, or mineral to

fill orders taken from purchasers, the filing shall include copies of all contracts or other documents evidencing the seller's ability to call upon suppliers to fill the seller's orders.

(4) If the seller represents to purchasers that the seller has insurance or a surety bond of any type relating to a purchaser's purchase of any metal, stone, or mineral from the seller, the filing shall include a complete copy of all these insurance policies and bonds.

(5) If the seller makes any representation as to the earning or profit potential of purchases of any metal, stone, or mineral, the filing shall include data to substantiate the claims made. If the representation relates to previous sales made by the seller or a related entity, substantiating data shall be based on the experiences of at least 50 percent of the persons who have purchased the particular metal, stone, or mineral from the seller or related entity during the preceding six months (or if the seller or related entity has not been in business that long, during the period the seller or related entity has been in business) and shall include the raw data upon which the representation is based, including, but not limited to, all of the following:

(A) The length of time the seller or related entity has been selling the particular metal, stone, or mineral being offered.

(B) The number of purchasers thereof from the seller or related entity known to the seller or related entity to have made at least the same earnings or profit as those represented.

(C) The percentage that the number disclosed pursuant to subparagraph (B) represents of the total number of purchasers from the seller or related entity of the particular metal, stone, or mineral.

(n) If the telephonic seller is offering to sell an interest in oil, gas, or mineral fields, wells, or exploration sites, the filing shall include disclosure of the following:

(1) The seller's ownership interest, if any, in each field, well, or site being offered for sale.

(2) The total number of interests to be sold in each field, well, or site being offered for sale.

(3) If, in selling an interest in any particular field, well, or site, reference is made to an investigation of these fields, wells, or sites by the seller or anyone else, the filing shall include the following:

(A) The name, business address, telephone number, and professional credentials of the person or persons who made the investigation.

(B) A copy of the report and other documents relating to the investigation prepared by the person or persons.

(4) If the seller makes any representation as to the earning or profit potential of purchases of any interest in these fields, wells, or sites, the filing shall include data to substantiate the claims made. If the representation relates to previous sales made by the seller or a related entity, the substantiating data shall be based on the experiences of at least 50 percent of the purchasers of the particular

interests from the seller or the related entity during the preceding six months (or if the seller has not been in business that long, during the period the seller or related entity has been in business) and shall include the raw data upon which the representation is based, including, but not limited to, all of the following:

(A) The length of time the seller or related entity has been selling the particular interests in the fields, wells, or sites being offered.

(B) The number of purchasers of the particular interests from the seller or related entity known to the seller to have made, at least the same earnings as those represented.

(C) The percentage the number disclosed pursuant to subparagraph (B) represents of the total number of purchasers of the particular interests from the seller or related entity.

(o) The name and address of the telephonic seller's agent in this state, other than the Attorney General, authorized to receive service of process in this state.

17511.5. In addition to complying with the requirements of Section 17500.3, as applicable, each telephonic seller, shall, at the time the solicitation is made and prior to consummation of any sales transaction, provide all of the following information to each prospective purchaser:

(a) If the telephonic seller represents or implies that a prospective purchaser will receive, without charge therefor, certain specific items or one item from among designated items, whether the items are denominated as gifts, premiums, bonuses, prizes, or otherwise, the seller shall provide the following:

(1) The information required to be filed by subparagraphs (A) and (B) of paragraph (4) of, and paragraph (5) of, subdivision (*l*) of Section 17511.4.

(2) The complete street address of the location from which the salesperson is calling the prospective purchaser and, if different, the complete street address of the telephonic seller's principal location.

(3) The total number of individuals who have actually received from the telephonic seller, during the preceding 12 months (or if the seller has not been in business that long, during the period the telephonic seller has been in business), the item having the greatest value and the item with the smallest odds of being received.

(b) If the telephonic seller is offering to sell any metal, stone, or mineral, the seller shall provide the following information:

(1) The complete street address of the location from which the salesperson is calling the prospective purchaser and, if different, the complete street address of the telephonic seller's principal location.

(2) When required to be filed pursuant to Section 17511.4, the information specified in subparagraphs (A) and (B) of paragraph (2) of, and paragraph (5) of, subdivision (m) of Section 17511.4.

(c) If the telephonic seller is offering to sell an interest in oil, gas, or mineral fields, wells, or exploration sites the seller shall provide the following information:

(1) The complete street address of the location from which the

salesperson is calling the prospective purchaser and, if different, the complete street address of the telephonic seller's principal location.

(2) The information required to be filed by paragraphs (1), (2), and (4) of, and subparagraph (A) of paragraph (3) of, subdivision (n) of Section 17511.4.

(d) If the telephonic seller represents that office equipment or supplies being offered are offered at prices which are below those usually charged for these items, the seller shall provide the following information:

(1) The complete street address of the location from which the salesperson is calling the prospective purchaser and, if different, the complete street address of the telephonic seller's principal location.

(2) The name of the manufacturer of each of the items the telephonic seller has represented for sale and in which the prospective purchaser expresses interest.

17511.6. Every telephonic seller shall file with the Attorney General, in the form prescribed by the Attorney General, an irrevocable consent appointing the Attorney General to act as the seller's attorney to receive service of any lawful process in any noncriminal suit, action, or proceeding against the seller or the seller's successor, executor, or administrator, which may arise under this article, when the agent designated pursuant to subdivision (o) of Section 17511.4 has resigned and has not been replaced or if the agent so designated cannot with reasonable diligence be found at the address designated pursuant to subdivision (o) of Section 17511.4 or if no agent has been designated pursuant thereto. When service is made upon the Attorney General in conformance with this section, it shall have the same force and validity as if served personally on the seller. Service may be made by leaving a copy of the process in the office of the Attorney General, but it shall not be effective unless both of the following are done:

(a) When service is effected pursuant to this section, the plaintiff shall forthwith send by first-class mail a notice of the service and a copy of the process to the defendant or respondent at the last address on file with the department.

(b) The plaintiff's affidavit of compliance with this section shall be filed in the case on or before the return date of the process, if any, or within such further time as the court allows.

17511.7. No seller shall make or authorize the making of any references to its compliance with this article to any prospective or actual purchaser.

17511.8. No salesperson shall solicit prospective purchasers on behalf of a telephonic seller who is not currently registered with the department pursuant to this article. Any salesperson who violates this section is guilty of a misdemeanor punishable by imprisonment in the county jail for not more than six months, by a fine not exceeding two thousand five hundred dollars ($2,500), or by both that fine and imprisonment.

17511.9. Except as provided in Section 17511.8, any person,

including, but not limited to, the seller, a salesperson, agent or representative of the seller, or an independent contractor, who willfully violates any provision of this article or who directly or indirectly employs any device, scheme, or artifice to deceive in connection with the offer or sale by any telephonic seller, or who willfully, directly, or indirectly, engages in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person in connection with a sale by any telephonic seller shall, upon conviction, be punished as follows:

(a) By a fine not exceeding ten thousand dollars ($10,000) for each unlawful transaction.

(b) By imprisonment in the state prison, or by imprisonment in the county jail for not more than one year.

(c) By both the fine and imprisonment specified in subdivisions (a) and (b).

17511.10. The provisions of this article are not exclusive. The remedies specified in this article for violation of any section of this article or for conduct proscribed by any section of this article shall be in addition to any other procedures or remedies for any violation or conduct provided for in any other law.

Nothing in this article shall limit any other statutory or any common law rights of the Attorney General, any district attorney or city attorney, or any other person. If any act or practice proscribed by this article is also the basis for a cause of action in common law or a violation of another statute, the purchaser may assert the common law or statutory cause of action under the procedures and with the remedies applicable thereto.

SEC. 2. If any provision of this act or any application thereof to any person or circumstance is held unconstitutional, the remainder of the act and the application of that provision to other persons and circumstances shall not be affected thereby.

SEC. 3. No reimbursement is required by this act pursuant to 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 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 1010

An act to add Section 674 to the Penal Code, relating to crimes.

[Approved by Governor September 25, 1985 Filed with Secretary of State September 26, 1985.]

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

SECTION 1. Section 674 is added to the Penal Code, to read:

674. Any person who is a primary care provider in a day care facility and who is convicted of a felony violation of Section 261, 285, 286, 288, 288a, or 289, where the victim of the crime was a minor entrusted to his or her care by the minor's parent or guardian, a court, any public agency charged with the provision of social services, or a probation department, may be punished by an additional term of two years. If the crime was committed while voluntarily acting in concert with another, the person so convicted may be punished by an additional term of three years. The enhancements authorized by this section may be imposed in addition to any other required or authorized enhancement.

CHAPTER 1011

An act to amend Sections 1806 and 1808 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 25, 1985 Filed with Secretary of State September 26, 1985.]

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

SECTION 1. Section 1806 of the Vehicle Code is amended to read:

1806. The department shall file all accident reports and abstracts of court records of convictions received under this code, and in connection therewith, shall maintain convenient records or make suitable notations in order that an individual record of each license showing the convictions of the licensee and all traffic accidents in which the individual was involved, except those where, in the opinion of a reporting officer, another individual was at fault, are readily ascertainable. At its discretion the department may file and maintain these accident reports and abstracts by electronic recording and storage media and after transcribing electronically all available data from the accident reports and abstracts of conviction may destroy the original documents. Notwithstanding any other provisions of law, the recorded facts from any electronic recording and storage device maintained by the department shall constitute evidence of the facts in any administrative actions instituted by the department.

SEC. 2. Section 1808 of the Vehicle Code is amended to read:

1808. Notwithstanding Sections 16005 and 20012, and except as provided in Sections 1808.4, 1808.5, and 1808.7, all records of the department relating to the registration of vehicles, other information contained on an application for a driver's license, abstracts of

convictions, and abstracts of accident reports required to be sent to the department in Sacramento, except for abstracts of accidents where, in the opinion of a reporting officer, another individual was at fault, shall be open to public inspection during office hours. All abstracts of accident reports shall be available to law enforcement agencies and courts of competent jurisdiction.

SEC. 3. Sections 1 and 2 of this act shall become operative six months after the effective date of this act.

CHAPTER 1012

An act to amend Section 11105.3 of the Penal Code, relating to criminal records.

[Approved by Governor September 25, 1985 Filed with Secretary of State September 26, 1985]

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

SECTION 1. Section 11105.3 of the Penal Code is amended to read:

11105.3. (a) Notwithstanding any other provision of law, an employer may request from the Department of Justice records of all convictions involving any sex crimes, drug crimes, or crimes of violence of a person who applies for employment or volunteers for a position in which he or she would have supervisory or disciplinary power over a minor. The department shall furnish the information to the requesting employer and shall also send a copy of the information to the applicant.

(b) Any request for records under subdivision (a) shall include the applicant's fingerprints, which may be taken by the employer, and any other data specified by the department. The request shall be on a form approved by the department, and the department may charge a fee to be paid by the employer for the actual cost of processing the request. The department shall destroy an application within six months after the requested information is sent to the employer and applicant.

(c) The department shall adopt regulations to implement the provisions of this section.

(d) As used in this section "employer" means any nonprofit corporation or other organizations specified by the Attorney General which employs or uses the services of volunteers in positions in which the volunteer or employee has supervisory or disciplinary power over a child or children.

(e) As used in this section "sex crime" means a conviction for a violation or attempted violation of Section 220, 261, 261.5, 264.1, 267, 272, 273a, 273d, 285, 286, 288, 288a, 289, 314, 647a, or subdivision (d) of Section 647, or commitment as a mentally disordered sex offender

under the provisions of former Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code.

(f) As used in this section, 'drug crime" means any felony or misdemeanor conviction, within 10 years of the date of the employer's request under subdivision (a), for a violation or attempted violation of the California Uniform Controlled Substances Act contained in Division 10 (commencing with Section 11000) of the Health and Safety Code, provided that no record of a misdemeanor conviction shall be transmitted to the employer unless the subject of the request has a total of three or more misdemeanor or felony convictions defined in subdivision (f) or (g) within the 10-year period.

(g) As used in this section, "crime of violence" means any felony or misdemeanor conviction within 10 years of the date of the employer's request under subdivision (a), for any of the offenses specified in subdivision (c) of Section 667.5 or a violation or attempted violation of Chapter 3 (commencing with Section 207), Chapter 8 (commencing with Section 236), or Chapter 9 (commencing with Section 240) of Title 8 of Part 1, provided that no record of a misdemeanor conviction shall be transmitted to the employer unless the subject of the request has a total of three or more misdemeanor or felony convictions defined in subdivision (f) or (g) within the 10-year period.

(h) Conviction for a violation or attempted violation of an offense committed outside the State of California is a sex crime, drug crime, or crime of violence if the offense would have been a crime as defined in this section if committed in California.

SEC. 2. Section 11105.3 of the Penal Code is amended to read:

11105.3. (a) Notwithstanding any other provision of law, an employer may request from the Department of Justice records of all convictions involving any sex crimes, drug crimes, or crimes of violence of a person who applies for employment or volunteers for a position in which he or she would have supervisory or disciplinary power over a minor. The department shall furnish the information to the requesting employer and shall also send a copy of the information to the applicant.

(b) Any request for records under subdivision (a) shall include the applicant's fingerprints, which may be taken by the employer, and any other data specified by the department. The request shall be on a form approved by the department, and the department may charge a fee to be paid by the employer for the actual cost of processing the request. However, no fee shall be charged a nonprofit organization for processing the request. The department shall destroy an application within six months after the requested information is sent to the employer and applicant.

(c) The department shall adopt regulations to implement the provisions of this section.

(d) As used in this section "employer" means any nonprofit

corporation or other organizations specified by the Attorney General which employs or uses the services of volunteers in positions in which the volunteer or employee has supervisory or disciplinary power over a child or children.

(e) As used in this section "sex crime" means a conviction for a violation or attempted violation of Section 220, 261, 261.5, 264.1, 267, 272, 273a, 273d, 285, 286, 288, 288a, 289, 314, 647a, or subdivision (d) of Section 647, or commitment as a mentally disordered sex offender under the provisions of former Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code.

(f) As used in this section, "drug crime" means any felony or misdemeanor conviction, within 10 years of the date of the employer's request under subdivision (a), for a violation or attempted violation of the California Uniform Controlled Substances Act contained in Division 10 (commencing with Section 11000) of the Health and Safety Code, provided that no record of a misdemeanor conviction shall be transmitted to the employer unless the subject of the request has a total of three or more misdemeanor or felony convictions defined in subdivision (f) or (g) within the 10-year period.

(g) As used in this section, "crime of violence" means any felony or misdemeanor conviction within 10 years of the date of the employer's request under subdivision (a), for any of the offenses specified in subdivision (c) of Section 667.5 or a violation or attempted violation of Chapter 3 (commencing with Section 207), Chapter 8 (commencing with Section 236), or Chapter 9 (commencing with Section 240) of Title 8 of Part 1, provided that no record of a misdemeanor conviction shall be transmitted to the employer unless the subject of the request has a total of three or more misdemeanor or felony convictions defined in subdivision (f) or (g) within the 10-year period.

(h) Conviction for a violation or attempted violation of an offense committed outside the State of California is a sex crime, drug crime, or crime of violence if the offense would have been a crime as defined in this section if committed in California.

SEC. 3. Section 2 of this bill incorporates amendments to Section 11105.3 of the Penal Code proposed by both this bill and AB 1976. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1986, (2) each bill amends Section 11105.3 of the Penal Code, and (3) this bill is enacted after AB 1976, in which case Section 1 of this bill shall not become operative.

CHAPTER 1013

An act to amend Sections 231, 21200, 40000.13, and 40303 of, and to add Section 21200.5 to, the Vehicle Code, relating to bicycles.

[Approved by Governor September 25, 1985 Filed with Secretary of State September 26, 1985.]

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

SECTION 1. Section 231 of the Vehicle Code is amended to read:

231. A bicycle is a device upon which any person may ride, propelled exclusively by human power through a belt, chain, or gears, and having one or more wheels. Persons riding bicycles are subject to the provisions of this code specified in Sections 21200 and 21200.5.

SEC. 2. Section 21200 of the Vehicle Code is amended to read:

21200. Every person riding a bicycle upon a highway has all the rights and is subject to all the provisions applicable to the driver of a vehicle by this division, including, but not limited to, provisions dealing with driving under the influence of alcoholic beverages or drugs, and by Division 10 (commencing with Section 20000), Division 16.7 (commencing with Section 39000), Division 17 (commencing with Section 40000), and Division 18 (commencing with Section 42000), except those provisions which by their very nature can have no application.

SEC. 2.5. Section 21200 of the Vehicle Code is amended to read:

21200. Every person riding a bicycle upon a highway has all the rights and is subject to all the provisions applicable to the driver of a vehicle by this division, including, but not limited to, provisions dealing with driving under the influence of alcoholic beverages or drugs, and by Division 10 (commencing with Section 20000), Section 27400, Division 16.7 (commencing with Section 39000), Division 17 (commencing with Section 40000), and Division 18 (commencing with Section 42000), except those provisions which by their very nature can have no application.

SEC. 3. Section 21200.5 is added to the Vehicle Code, to read:

21200.5. Notwithstanding Section 21200, it is unlawful for any person to ride a bicycle upon a highway while under the influence of an alcoholic beverage or any drug, or under the combined influence of an alcoholic beverage and any drug. Any person arrested for a violation of this section may request to have a chemical test made of the person's blood, breath, or urine for the purpose of determining the alcoholic or drug content of that person's blood, and, if so requested, the arresting officer shall have the test performed. A conviction of a violation of this section shall be punished by a fine of not more than two hundred fifty dollars ($250).

SEC. 4. Section 40000.13 of the Vehicle Code is amended to read:

40000.13. A violation of any of the following provisions is a

misdemeanor, and not an infraction:

(a) Section 16560, relating to interstate highway carriers.

(b) Sections 20002 and 20003, relating to duties at accidents.

(c) Section 21200.5, relating to riding a bicycle while under the influence of an alcoholic beverage or any drug.

(d) Section 21651, subdivision (b), relating to wrong-way driving on freeways.

(e) Section 22520.5, a second or subsequent conviction of an offense relating to vending on or near freeways.

(f) Section 22520.6, a second or subsequent conviction of an offense relating to roadside rest areas and vista points.

SEC. 5. Section 40303 of the Vehicle Code is amended to read:

40303. Whenever any person is arrested for any of the following offenses and the arresting officer is not required to take the person without unnecessary delay before a magistrate, the arrested person shall, in the judgment of the arresting officer, either be given a 10 days' notice to appear as provided in this section or be taken without unnecessary delay before a magistrate within the county in which the offense charged is alleged to have been committed and who has jurisdiction of the offense and is nearest or most accessible with reference to the place where the arrest is made:

(a) Section 10852 or 10853, relating to injuring or tampering with a vehicle.

(b) Section 23103 or 23104, relating to reckless driving.

(c) Section 2800, insofar as it relates to a failure or refusal of the driver of a vehicle to stop and submit to an inspection or test of the lights upon the vehicle under Section 2804 hereof, which is punishable as a misdemeanor.

(d) Section 2800, insofar as it relates to a failure or refusal of the driver of a vehicle to stop and submit to a brake test which is punishable as a misdemeanor.

(e) Section 2800, relating to the refusal to submit vehicle and load to an inspection, measurement, or weighing as prescribed in Section 2802 or a refusal to adjust the load or obtain a permit as prescribed in Section 2803.

(f) Section 2800, insofar as it relates to any driver who continues to drive after being lawfully ordered not to drive by a member of the California Highway Patrol for violating the driver's hours of service or driver's log regulations adopted pursuant to subdivision (a) of Section 34501.

(g) Section 20002 or 20003, relating to duties in the event of an accident.

(h) Section 23109, relating to participating in speed contests or exhibition of speed.

(i) Section 14601, 14601.1, or 14601.2, relating to driving while license is suspended or revoked.

(j) When the person arrested has attempted to evade arrest.

(k) Section 23332, relating to persons upon vehicular crossings.

(*l*) Section 2813, relating to the refusal to stop and submit a

vehicle to an inspection of its size, weight, and equipment.

(m) Section 21461.5, insofar as it relates to a pedestrian who, after being cited for a violation of Section 21461.5, is, within 24 hours, again found upon the freeway in violation of Section 21461.5 and thereafter refuses to leave the freeway after being lawfully ordered to do so by a peace officer and after having been informed that his or her failure to leave could result in his or her arrest.

(n) Section 2800, insofar as it relates to a pedestrian who, after having been cited for a violation of Section 2800 for failure to obey a lawful order of a peace officer issued pursuant to Section 21962, is within 24 hours again found upon the bridge or overpass and thereafter refuses to leave after being lawfully ordered to do so by a peace officer and after having been informed that his or her failure to leave could result in his or her arrest.

(o) Section 21200.5, relating to riding a bicycle while under the influence of an alcoholic beverage or any drug.

SEC. 6. Section 2.5 of this bill incorporates amendments to Section 21200 of the Vehicle Code proposed by both this bill and Assembly Bill No. 522. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1986, (2) each bill amends Section 21200 of the Vehicle Code, and (3) this bill is enacted after Assembly Bill No. 522, in which case Section 2 of this bill shall not become operative.

SEC. 7. No reimbursement is required by this act pursuant to 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 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 1014

An act to amend Section 105 of, and to add Article 5 (commencing with Section 12100) to Chapter 1 of Part 4 of Division 2 of, the Insurance Code, relating to insurance, and making an appropriation therefor.

[Approved by Governor September 25, 1985 Filed with Secretary of State September 26, 1985.]

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

SECTION 1. Section 105 of the Insurance Code is amended to read:

105. Surety insurance includes:

(a) The guaranteeing of behavior of persons and the guaranteeing of performance of contracts (including executing or guaranteeing bonds and undertakings required or permitted in all actions or

proceedings or by law allowed), other than insurance policies and other than for payments secured by a mortgage, deed of trust, or other instrument constituting a lien or charge on real estate.

(b) Notwithstanding subdivision (a), Section 117, Section 119, or the provisions of Chapter 2 (commencing with Section 12420) and Chapter 2A (commencing with Section 12640.01) of Part 6 of Division 2, a municipal bond insurer which meets the requirements of Article 5 (commencing with Section 12100) of Chapter 1 of Part 4 of Division 2, may insure obligations in connection with the issuance of municipal bonds as defined in subdivision (b) of Section 12100, where the obligation being guaranteed or insured meets either of the following criteria:

(1) Is, includes, or is secured by a lease or rental payments for the possession, use or occupancy of real estate or any improvements thereon.

(2) Is, includes, or is secured by a mortgage, deed of trust, or other instrument constituting a lien or charge on real estate and any improvements thereon. However, if the mortgage, deed or trust, or other instrument constituting a lien or charge on real estate is upon real estate, the primary improvement on which is a residential building, a condominium unit or other building designed, in each case, for occupancy by one or more families that insurer shall not insure any such obligation unless there is adequate mortgage or mortgage guaranty insurance covering the obligation. The commissioner may prescribe standards as to the mortgage or mortgage guaranty risk which may be undertaken in connection with those obligations. In prescribing the standards, the commissioner shall give due consideration to the market availability of insurance covering the risks, the mortgage guaranty insurance coverage requirement of the national secondary market, and whether that coverage is reasonably available from admitted mortgage or admitted mortgage guaranty insurers.

(c) Insurance against loss resulting from the forgery or alteration of any instrument of any kind or character or of any signature thereon. Nothing in this paragraph shall be deemed to limit any of the powers of title insurers.

(d) Any of the following insurance when included as a part of contract containing any such guarantee of behavior or performance or in a contract indemnifying any bank, banker, broker, financial or moneyed corporation or association, any state, political subdivision, public or municipal corporation, or any officer of any state, political subdivision, public or municipal corporation: Insurance indemnifying the insured named therein against loss or destruction from any cause of any evidences of debt of any kind or character, evidences of ownership of any kind or character, deeds, mortgages, warehouse receipts, bills of lading, certificates of stock, bonds, notes, drafts, checks, instruments of similar character, stamps, documents, money, precious metals of any kind or character, refined or unrefined, and articles made therefrom, jewelry, watches, necklaces,

bracelets, gems and precious and semiprecious stones, and also against loss or damage, except by fire, to the insured's premises, furnishings, fixtures, equipment, safes and vaults therein caused by burglary, robbery, holdup, theft or larceny or attempt thereat. No such insurance indemnifying against loss of any property as specified herein shall indemnify against loss of any such property occurring while in the mail or in the exclusive custody or possession of a common carrier for the purpose of transportation, except for the purpose of transportation by an armored motor vehicle.

SEC. 2. Article 5 (commencing with Section 12100) is added to Chapter 1 of Part 4 of Division 2 of the Insurance Code, to read:

Article 5. Municipal Bond Insurance

12100. The definitions set forth in this section shall govern the construction of the terms used in this article but shall not affect any other sections of this code unless specifically referenced therein:

(a) "Municipal bond insurance" means insurance against financial loss by reason of nonpayment of principal, interest, or other payment obligations pursuant to the terms of municipal bonds.

(b) "Municipal bonds" means any security, or other instrument under which a payment obligation is created, issued by or on behalf of, or guaranteed by a state, territory, or possession of the United States of America, a municipality, or a political subdivision of any of the foregoing, or by any public agency or instrumentality thereof.

(c) "Contingency reserve" means an additional reserve account established for the protection of policyholders against the effect of adverse economic cycles.

(d) "Total liability" means the aggregate exposure written on all municipal bond policies on a gross basis which includes unpaid insured principal and unpaid insured interest due or to become due to maturity. "Total net liability" means the total liability net of reinsurance.

(e) "Affiliate" means an affiliate as defined in subdivision (a) of Section 1215.

12101. (a) An admitted insurer shall not transact the business of municipal bond insurance unless it is authorized to write the class of surety insurance set forth in Section 105, and has complied with all of the following requirements:

(1) Filed an application for qualification on a form prescribed by the commissioner accompanied by the applicant's proposed plan of operation, its financial condition, and any other information deemed appropriate by the commissioner.

(2) Paid a fee in advance of one thousand five hundred dollars ($1,500) to the department for the filing of the application.

(3) Received written qualification to transact municipal bond insurance from the commissioner.

(b) An insurer that anywhere issues contracts insuring municipal bonds is not eligible for a certificate of authority or continuation of

a certificate of authority to transact any insurance business in this state unless it complies with the requirements of this article. However, this subdivision shall not become operative until January 1, 1988, except that with regard to municipal bond insurance transacted in this state, any such insurer shall, on and after January 1, 1986, comply with the requirements of this article. The commissioner shall report to the Legislature no later than April 1, 1987, concerning the impact of this subdivision on municipal bond insurers.

(c) On and after January 1, 1986, any insurer seeking a certificate of authority to transact any class of insurance in this state shall comply with this article if that insurer transacts or is authorized to transact municipal bond insurance anywhere.

12102. The insurer shall establish a contingency reserve consisting of allocations from surplus of sums representing 50 percent of the earned premiums on policies insuring municipal bonds. Allocations to the contingency reserve made during each calendar year shall be maintained until the contingency reserve equals or exceeds 1 percent of the total net liability exclusive of unpaid insured interest. These allocations shall be maintained for a period of not less than 240 months and for such additional period of time that is necessary to achieve compliance with the requirement that the contingency reserve equal or exceed 1 percent. Notwithstanding the foregoing, withdrawals may be made by the insurer in any year in which, and to the extent that, the incurred losses exceed 35 percent of the earned premium thereon or as otherwise permitted by the commissioner. The contingency reserve shall be considered a separate liability and shall be reported as such in all statutory financial filings.

12103. The insurer may apply to the commissioner for release of a reasonable percentage of the contingency reserve upon demonstration that the amount carried is excessive in relation to the insurer's obligations under policies insuring municipal bonds. The filing fee for that application is five hundred dollars ($500).

12104. (a) All municipal bonds that are issued by a single issuer and secured by a single revenue source shall be considered "one issue" for purposes of this section. In no event shall the average annual amount due for unpaid insured principal and unpaid insured interest to maturity on insured securities of such issue, net of appropriate reinsurance, and collateral security as approved by the commissioner, exceed 7½ percent of the insurer's or reinsurer's combined capital and surplus and the contingency reserve required by Section 12102, as shown by its last annual statement on file in the office of the commissioner.

(b) In determining whether an insurer meets the limitations of this section, the average annual amount due for unpaid insured principal and unpaid insured interest to maturity on one issue insured by the insurer and its affiliates, in which the insurer has a direct or indirect investment, shall be aggregated, net of reinsurance

with nonaffiliates of the insurer and collateral security as approved by the commissioner. However, if the affiliate is not wholly owned directly or indirectly by the insurer, the amount of insured unpaid principal and insured unpaid interest on one issue shall be aggregated in the same percentage as the insurer's direct or indirect investment in the affiliate.

(c) The commissioner shall require payment in advance of five hundred dollars ($500) as a fee for the review and determination under subdivision (b) as to whether or not he or she will approve the use of that collateral security in connection with a single issue as applied for by the insurer. The commissioner shall require the payment of additional amounts from the requesting insurer as may be necessary to defray all costs including, but not limited to, appraisal, administrative, title verification, and legal fees, in excess of five hundred dollars ($500) incurred by the commissioner in making that determination.

12105. (a) In no event shall one-half of 1 percent of the insurer's or reinsurer's total net liability under policies of municipal bond insurance exceed the sum of its capital and surplus and the contingency reserve as required by Section 12102. In the event that one-half of 1 percent of the total net liability is in excess of the amount so computed, the insurer or reinsurer shall cease transacting any new municipal bond insurance or reinsurance until such time as its total net liability is brought into compliance with this section. The commissioner shall report to the Legislature concerning the progress of municipal bond insurers and reinsurers in meeting the requirements of this section no later than April 1, 1987. The requirements imposed by this section shall become operative on January 1, 1988. However, the commissioner may by notice delay that date to not later than January 1, 1989.

(b) In determining whether an insurer meets the limitations of this section, the total liability of the insurer's affiliates, in which the insurer has a direct or indirect investment, net of reinsurance with nonaffiliates of the insurer, shall be aggregated with the total net liability of the insurer. However, if the affiliate is not wholly owned directly or indirectly by the insurer, such total liability shall be aggregated in the same percentage as the insurer's direct or indirect investments in the affiliate.

12106. (a) Any surety insurer qualified to write municipal bond insurance may, by contract, reinsure any such insurance it transacts, provided that credit in accounting and financial statements permitted by this code on account of reinsurance ceded shall be allowed only if that reinsurance shall be with one of the following:

(1) An insurer qualified to write municipal bond insurance pursuant to this article.

(2) A surety insurer or surety reinsurer which is authorized to write any type of surety insurance in this state.

(3) A nonadmitted foreign or alien reinsurer having a minimum combined capital and surplus of twenty-five million dollars

($25,000,000), or, in the case of an unincorporated association of individual alien reinsurers, maintains sufficient assets in the United States, but in no event less than five hundred million dollars ($500,000,000), for the protection of policyholders in the United States and operates its business in such a manner to satisfy the commissioner that it maintains standard and financial conditions reasonably comparable to those required of admitted insurers and that it is able to pay losses in the United States; but, in either case, only to the extent and under the conditions specified in Sections 922.4 and 922.5.

(b) The ceding insurer shall establish and maintain the reserves referred to in Section 12107. The contingency reserve required by Section 12102 shall not be reduced by reason of any risk ceded unless the risk is ceded to an insurer that is described in paragraph (1) or (2) of subdivision (a) and that reinsurer establishes the contingency reserve as provided by Section 12102 with respect to the ceded portion of the risk.

(c) Any insurer or reinsurer meeting the requirements of paragraph (2) or (3) of subdivision (a) shall be authorized to contract for municipal bond reinsurance, but nothing herein contained shall be deemed to permit that insurer or reinsurer to write municipal bond insurance directly.

(d) Any reinsurance allowed pursuant to subdivision (a) may be contracted for by a municipal bond insurer with an affiliate.

12107. For the purposes of this article the following reserves shall be established:

(a) The unearned premium reserve shall be computed to show gross premiums, without any deductions, received and receivable upon all unexpired risks, net of reinsurance, on a monthly pro rata basis, except that in the case of premiums paid more than one year in advance, the premiums shall be earned proportionately with the expiration of exposure, or by such other method as the commissioner may prescribe or approve.

(b) In addition to the contingency reserve required under Section 12102, reserves for losses and loss adjustment expenses for claims reported and unpaid shall be determined using the case basis method or such other method as the commissioner may prescribe. In addition, a reserve component for incurred but not reported claims shall be reasonably estimated.

(c) Except as otherwise permitted by the commissioner, no deduction shall be made for anticipated salvage in computing case basis loss reserves, unless that salvage is held by or under the control of the insurer and would qualify as an admitted asset under Section 1100 and Sections 1170 to 1202, inclusive, or unless that salvage constitutes or is secured by a clean, irrevocable letter of credit as approved by the commissioner.

(d) No deduction from reserves shall be allowed for the time value of money unless the insurer can satisfy the commissioner that bonds, notes, and other fixed income investments, as authorized

under the provisions of Articles 3 (commencing with Section 1170) and 4 (commencing with Section 1190) of Chapter 2 of Part 2 of Division 1, relating to general and excess funds investments, sufficient to meet obligations for unpaid principal and unpaid interest calculated to the redemption of the defaulted issue have been identified in the accounts of the insurer, or deposited in trust, as prescribed by the commissioner for the purpose of meeting such obligations.

(e) If the default for any one issue exceeds 5 percent of the insurer's capital and surplus and contingency reserve, and the reserve is set up for less than the entire unpaid insured principal and unpaid insured interest to redemption, the reserve so established shall be supported by a report from a qualified independent person acceptable to the commissioner.

12108. No insurer authorized to transact municipal bond insurance shall pay any commission or make any gift of money, property, or other valuable thing to any employee, agent, or representative of any issuer of municipal bonds or trustee of any issuer or to any employee, agent, or representative of any underwriter of any issuer of those bonds as an inducement to the purchase of that insurance, and at any time there is in force a policy insuring those bonds, no employee, agent, or representative of the issuer or underwriter shall receive any such payment or gift. Any such payment or gift is an unlawful rebate pursuant to Article 5 (commencing with Section 750) of Chapter 1 of Part 2 of Division 1.

12109. The commissioner may adopt rules and regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code to effectively regulate municipal bond insurance business, including but not limited to, types of risks, methods by which business is produced, amounts at risk, reserves, collateral, and other financial requirements as he or she may deem necessary.

CHAPTER 1015

An act to amend Sections 3517.6, 18802, 19816, 19889, and 19889.2 of, to amend and renumber Sections 19816.5, 19817, 19818, 19819, and 19819.1 of, to add Sections 19816.12, 19816.14, and Article 2.5 (commencing with Section 19818) to Chapter 1 of Part 2.6 of Division 5 of Title 2 of, and to repeal Sections 18704, 18708.5, 18715, 18716, 18801, 18803, 18805, 19255, and 19761 of, the Government Code, relating to state employees, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1985. Filed with Secretary of State September 26, 1985.]

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

SECTION 1. Section 3517.6 of the Government Code is amended to read:

3517.6. In any case where the provisions of Section 70031 of the Education Code, or subdivision (h) of Section 3513, or Section 14876, 18714, 19080.5, 19100, 19143, 19261, 19818.16, 19819.1, 19820, 19822, 19824, 19826, 19827, 19828, 19829, 19830, 19831, 19832, 19833, 19834, 19835, 19836, 19837, 19838, 19839, 19840, 19841, 19842, 19843, 19844, 19845, 19846, 19847, 19848, 19849, 19849.1, 19849.4, 19850.1, 19850.2, 19850.3, 19850.4, 19850.5, 19850.6, 19851, 19853, 19854, 19856, 19856.1, 19858.1, 19858.2, 19859, 19860, 19861, 19862, 19862.1, 19863, 19863.1, 19864, 19866, 19869, 19870, 19871, 19871.1, 19872, 19873, 19874, 19875, 19876, 19877, 19877.1, 19878, 19879, 19880, 19880.1, 19881, 19882, 19883, 19884, 19885, 19887, 19887.1, 19887.2, 19888, 19990, 19991, 19991.1, 19991.2, 19991.3, 19991.4, 19991.5, 19991.6, 19991.7, 19992, 19992.1, 19992.2, 19992.3, 19992.4, 19993, 19994.1, 19994.2, 19994.3, 19994.4, 19995, 19995.1, 19995.2, 19995.3, 19996.1, 19996.2, 19998, 19998.1, 20750.11, 21400, 21402, 21404, 21405, 22825, or 22825.1 are in conflict with the provisions of a memorandum of understanding, the memorandum of understanding shall be controlling without further legislative action. In any case where the provisions of Section 19997.2, 19997.3, 19997.8, 19997.9, 19997.10, 19997.11, 19997.12, 19997.13, or 19997.14 are in conflict with the provisions of a memorandum of understanding, the terms of the memorandum of understanding shall be controlling unless the State Personnel Board finds those terms to be inconsistent with merit employment principles as provided for by Article VII of the California Constitution. Where this finding is made, the provisions of the Government Code shall prevail until those affected sections of the memorandum of understanding are renegotiated to resolve the inconsistency. If any provision of the memorandum of understanding requires the expenditure of funds, those provisions of the memorandum of understanding shall not become effective unless approved by the Legislature in the annual Budget Act. If any provision of the memorandum of understanding requires legislative action to permit its implementation by amendment of any section not cited above, those provisions of the memorandum of understanding shall not become effective unless approved by the Legislature.

SEC. 2. Section 18704 of the Government Code is repealed.

SEC. 3. Section 18708.5 of the Government Code is repealed.

SEC. 4. Section 18715 of the Government Code is repealed.

SEC. 5. Section 18716 of the Government Code is repealed.

SEC. 6. Section 18801 of the Government Code is repealed.

SEC. 7. Section 18802 of the Government Code is amended to read:

18802. From time to time as it deems necessary, the board may establish additional classes and divide, combine, alter, or abolish existing classes. In establishing, altering, or abolishing classes, the

board shall consider the recommendations of the Department of Personnel Administration. When those actions are taken the board shall determine in each instance whether positions affected are to be reallocated to another class or classes after taking into account the duties and responsibilities, qualifications, performance standards, and other related criteria before and after the change, and shall determine the status of the probationary and permanent employees affected.

SEC. 8. Section 18803 of the Government Code is repealed.

SEC. 9. Section 18805 of the Government Code is repealed.

SEC. 10. Section 19255 of the Government Code is repealed.

SEC. 11. Section 19761 of the Government Code is repealed.

SEC. 12. Section 19816 of the Government Code is amended to read:

19816. Except as provided by Section 19816.2, the department succeeds to and is vested with the duties, purposes, responsibilities, and jurisdiction exercised by the State Personnel Board with respect to the administration of salaries, hours and other personnel related matters, training, performance evaluations, and layoffs and grievances.

The department succeeds to and is vested with the duties, purposes, responsibilities, and jurisdiction exercised by the State Board of Control and the Department of General Services with respect to the administration of miscellaneous employee entitlements.

The department succeeds to and is vested with the duties, purposes, responsibilities, and jurisdiction exercised by the Department of Finance with respect to the administration of salaries of employees exempt from civil service and within range salary adjustments.

SEC. 13. Section 19816.5 of the Government Code is amended and renumbered to read:

19816.2. Notwithstanding any other provision of this part, regulations and other provisions pertaining to the layoff or demotion in lieu of layoff of civil service employees that are established or agreed to by the department shall be subject to review by the State Personnel Board for consistency with merit employment principles as provided for by Article VII of the California Constitution.

SEC. 14. Section 19817 of the Government Code is amended and renumbered to read:

19816.4. The department shall have possession and control of all records, papers, offices, equipment, supplies, moneys, funds, appropriations, land, and other property real or personal held for the benefit or use by the State Personnel Board, the State Board of Control, the Department of General Services, and the Department of Finance in the performance of the duties, powers, purposes, responsibilities, and jurisdiction that are vested in the department by Section 19816.

SEC. 15. Section 19818 of the Government Code is amended and

renumbered to read:

19816.6. All officers and employees of the State Personnel Board, the State Board of Control, the Department of General Services, and the Department of Finance, who, on the operative date of this part, are serving in the state civil service, other than as temporary employees, and engaged in the performance of a function vested in the department by Section 19816 shall be transferred to the department. The status, positions, and rights of such persons shall not be affected by the transfer and shall be retained by them as officers and employees of the department pursuant to the State Civil Service Act, except as to positions exempt from civil service.

SEC. 16. Section 19819 of the Government Code is amended and renumbered to read:

19816.8. The department may expend, in accordance with law, all moneys made available for its use or for the administration of any statute administered by it.

SEC. 17. Section 19819.1 of the Government Code is amended and renumbered to read:

19816.10. (a) In order to secure substantial justice and equality among employees in the state civil service, the department may provide by rule for days, hours and conditions of work, taking into consideration the varying needs and requirements of the different state agencies and the prevailing practices for comparable services in other public employment and in private business.

(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. 18. Section 19816.12 is added to the Government Code, to read:

19816.12. The department shall establish and maintain in suitable form an official roster of all persons holding positions under this part and enter thereupon their names, complete record of state employment, and other facts prescribed by board rule.

SEC. 19. Section 19816.14 is added to the Government Code, to read:

19816.14. The department, with the concurrence of the Department of Finance, shall provide for such audit and certification of payrolls as it deems necessary to insure that all persons in the state civil service, for whom claim for payment of salaries or compensation is made on the Controller, are holding positions as provided by law.

SEC. 20. Article 2.5 (commencing with Section 19818) is added to Chapter 1 of Part 2.6 of Division 5 of Title 2 of the Government Code, to read:

Article 2.5. Personnel Classification Plan

19818. Subject to Article VII of the California Constitution, the department succeeds to and is vested with the duties, purposes, responsibilities, and jurisdiction exercised by the State Personnel Board with respect to the administration of the Personnel Classification Plan.

19818.2. The department shall have possession and control of all records, papers, offices, equipment, supplies, moneys, funds, appropriations, land, and other property, real or personal, held for the benefit or use by the State Personnel Board in the performance of the duties, powers, purposes, responsibilities, and jurisdictions that are vested in the department by Section 19818.

19818.4. All officers and employees of the State Personnel Board, who, on the effective date of this article, are serving in the state civil service, other than as temporary employees, and engaged in the performance of a function vested in the department by Section 19818 shall be transferred to the department.

19818.6. The department shall administer the Personnel Classification Plan of the State of California including the allocation of every position to the appropriate class in the classification plan. The allocation of a position to a class shall derive from and be determined by the ascertainment of the duties and responsibilities of the position and shall be based on the principle that all positions shall be included in the same class if:

(a) The positions are sufficiently similar in respect to duties and responsibilities that the same descriptive title may be used.

(b) Substantially the same requirements as to education, experience, knowledge, and ability are demanded of incumbents.

(c) Substantially the same tests of fitness may be used in choosing qualified appointees.

(d) The same schedule of compensation can be made to apply with equity.

19818.8. A person shall not be assigned to perform the duties of any class other than that to which his or her position is allocated, except as permitted by Section 19994.9.

19818.10. The department shall assess the adequacy of the Personnel Classification Plan and, as needed, recommend changes in the plan to the State Personnel Board. The recommendations shall include the need for the establishment of additional classes or the abolishment or alteration of existing classes.

19818.12. Positions in the state service shall be established by the appointing power as authorized by law subject to budgetary authorization and the availability of funds. Each appointing power shall promptly report to the department his or her intention to establish new positions in order that those positions may be classified and allocated, and shall so report material changes in the duties of any position in his or her jurisdiction.

19818.14. The department may designate an appointing power to

allocate positions to the Personnel Classification Plan in accordance with Section 19818.6 and department rule. The department may audit position allocations and order corrective action. Any corrective action including the reallocation of a position that impacts an incumbent shall be reported promptly to the State Personnel Board which shall determine the status of the probationary or permanent employee affected.

19818.16. (a) Notwithstanding Sections 905.2, 19818.8, and 19823, the department shall have the authority to review employee claims for additional reimbursement for the performance of duties outside the scope of their present classification and to authorize additional reimbursement for those duties. The department shall award employee claims under this section for a period no greater than one year preceding the filing of a claim.

(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 those 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.

19818.18. Upon the allowance of the department of all or part of an employee claim for additional reimbursement for the performance of duties outside the scope of their present classification, certification by the Director of Finance that a sufficient appropriation exists, the execution and presentation of such documents as the department may require which discharge the state of all liability under the claim, and notwithstanding the provisions of Section 19630, the department shall designate the fund from which the claim is to be paid and the state agency concerned shall pay the claim from that fund. Where no sufficient appropriation for the payment is available, the department shall submit a request to the Legislature for appropriation of those funds.

19818.20. Reasonable opportunity to appeal shall be provided by the department to any employee affected by the allocation or reallocation of his or her position.

SEC. 21. Section 19889 of the Government Code is amended to read:

19889. It is the purpose of this article to encourage the development and effective use in the civil service of well-qualified and carefully selected executives. In order to carry out this purpose the State Personnel Board shall establish by rule a system of merit personnel administration specifically suited to the selection and placement of executive personnel. The department shall be responsible for salary administration, position classification, and for the motivation and training of executive personnel. For the purpose of administering this system there is established herewith a category of civil service appointment called "career executive assignments." The department shall designate positions of a high administrative

and policy influencing character for inclusion in or removal from this category subject to review by the State Personnel Board, except that the department shall not so designate a position in which there is an incumbent already appointed under the provisions of this part governing employees other than career executives.

SEC. 22. Section 19889.2 of the Government Code is amended to read:

19889.2. The provisions of this part governing the selection, classification, and tenure of employees in the regular civil service shall not apply in administering executive personnel through a merit system utilizing "career executive assignments" unless the application is provided by State Personnel Board rule. The provisions of this part relating to punitive actions shall apply to employees serving in career executive assignments, except that termination of a career executive assignment as provided for in Section 19889.3 is not a punitive action. With reference to termination of career executive assignments, the State Personnel Board rules shall, as a minimum, afford an employee a right of appeal to the State Personnel Board for restoration of his or her assignment when he or she alleges that his or her termination was for reasons prohibited in Chapter 10 (commencing with Section 19680) of Part 2.

SEC. 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:

The Governor's Reorganization Plan No. 1 of 1984, which became effective on June 11, 1984, transferred various functions relating to state civil service employees from the State Personnel Board to the Department of Personnel Administration. In order for the statutory changes necessary to reflect these transferred functions to become law at the earliest possible time, thereby reducing confusion resulting from statutory provisions which differ from the provisions of the reorganization plan, it is necessary for this act to take effect immediately.

CHAPTER 1016

An act to amend Section 853 of the Public Utilities Code, relating to public utilities, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1985 Filed with Secretary of State September 26, 1985]

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

SECTION 1. Section 853 of the Public Utilities Code is amended to read:

853. (a) This article does not apply to any person or corporation which transacts no business subject to regulation under this part, except performing services or delivering commodities for or to public utilities or municipal corporations or other public agencies primarily for resale or use in serving the public or any portion thereof, but shall nevertheless apply to any public utility if the commission finds, in a proceeding to which the public utility is or may become a party, that the application of this article is required by the public interest.

(b) The commission may from time to time by order or rule, and subject to such terms and conditions as may be prescribed therein, exempt any public utility or class of public utility from this article if it finds that the application thereof with respect to the public utility or class of public utility is not necessary in the public interest. The commission may establish rules or impose requirements deemed necessary to protect the interest of the customers or subscribers of the public utility or class of public utility exempted under this subdivision. These rules or requirements may include, but are not limited to, notification of a proposed sale or transfer of assets or stock and provision for refunds or credits to customers or subscribers.

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 enable the Public Utilities Commission to adequately monitor and control rapid changes and reorganizations in the telecommunications industry, to protect the interests of customers and subscribers, and to permit improvements in these services to take place during the present period of rapid changes and developments, it is necessary that this act take effect immediately.

CHAPTER 1017

An act to amend Section 1523 of, and to add Sections 1519 and 1526.5 to, the Health and Safety Code, relating to community care facilities.

[Approved by Governor September 25, 1985. Filed with Secretary of State September 26, 1985]

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

SECTION 1. Section 1519 is added to the Health and Safety Code, to read:

1519. The Auditor General shall report to the Legislature by no later than March 1, 1986, on the cost of operation for residential

facilities for all client groups, taking into account the difference in facility size. The Auditor General shall recommend an appropriate rate structure for recipients of Supplemental Security Income/State Supplementary Program in residential facilities for all client groups based on the findings in the report.

SEC. 2. Section 1523 of the Health and Safety Code is amended to read:

1523. (a) (1) A fee adjusted by facility and capacity shall be charged by the department for the issuance or renewal of a license or special permit or for processing any application therefor. The amount of the fee shall be based upon a portion of the application and renewal processing costs. The fee shall not exceed the following:

Fee Schedule

Facility Type	Capacity	Original Application	Renewal Application
Residential Facilities	1-6	$100	$100
	7-15	$150	$150
	16-49	$200	$200
	50+	$250	$250

(2) Foster family homes and all facilities operated by public agencies shall be exempt from the fees imposed pursuant to this subdivision.

(3) No local jurisdiction shall impose any business license, fee, or tax for the privilege of operating a facility licensed under this chapter which serves six or fewer persons.

(b) (1) The revenues collected from licensing fees pursuant to this section shall be utilized by the department to fund postlicensure inspection pursuant to Section 1526.5 to allow increased monitoring of facilities with a history of noncompliance with licensing laws and regulations pursuant to this chapter other administrative activities in support of the licensing program, when appropriated for these purposes. The revenues collected shall be used in addition to any other funds appropriated in the Budget Act in support of the licensing program.

(2) The department shall not utilize any portion of these revenues sooner than 30 days after notification in writing of the purpose and use of this revenue, as approved by the Director of Finance, to the Chairperson of the Joint Legislative Budget Committee and the chairpersons of the committee in each house that considers appropriations for each fiscal year. For fiscal year 1986–87 and thereafter, the department shall submit a budget change proposal to justify any positions or any other related support costs on an ongoing basis.

(c) The fees authorized by this section shall not be imposed until the Auditor General has issued the report to the Legislature required by Section 1519.

SEC. 2. Section 1526.5 is added to the Health and Safety Code, to

read:

1526.5. (a) Within 90 days after the date of issuance of a license or special permit pursuant to Section 1525, the department shall conduct an inspection of the facility for which the license or special permit was issued.

(b) After the inspection required by subdivision (a), the department shall inspect the facility to evaluate compliance with rules and regulations and to assess the facility's continuing ability to meet regulatory requirements. The department may take appropriate remedial action as authorized by this chapter.

CHAPTER 1018

An act to amend Section 4 of Chapter 70 of the Statutes of 1981, relating to the John Swett Unified School District, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1985 Filed with Secretary of State September 26, 1985]

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

SECTION 1. Section 4 of Chapter 70 of the Statutes of 1981 is amended to read:

Sec. 4. The allocation made pursuant to Section 2 of this act shall be repaid as follows, any provision of law to the contrary notwithstanding:

For fiscal year 1985–86, the Superintendent of Public Instruction shall deduct from the principal apportionment made to the John Swett Unified School District an amount equal to one-fifth of the amount actually allocated to the district pursuant to Section 1 of this act, together with amounts representing interest at a rate based on the most current investment rate of the Pooled Money Investment Account as of February 20 of that fiscal year.

SEC. 2. Regardless of when this act becomes effective, it is the intent of the Legislature to make changes in state apportionments to the John Swett Unified School District for fiscal year 1985–86 in their entirety. For the purpose of implementing the changes required by Section 1 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. 3. Due to the unique circumstances concerning the John Swett Unified School District, the Legislature finds and declares that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution.

SEC. 4. This act is an urgency statute necessary for the

immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to allow for an adjusted interest rate at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 1019

An act to amend Sections 2150, 3005.9, and 3005.91 of, and to add Sections 2020, 2150.1, 2150.2, 2150.3, and 2150.4 to, the Fish and Game Code, relating to fish and game, and making an appropriation therefor.

[Approved by Governor September 25, 1985. Filed with Secretary of State September 26, 1985.]

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

SECTION 1. Section 2020 is added to the Fish and Game Code, to read:

2020. (a) Notwithstanding Section 13340 of the Government Code, the funds received from permit fees authorized in Section 2150, transfer fees authorized in Section 2150.2, and all the funds received from inspection fees authorized in subdivision (b) of Section 2150.4 and in Section 3005.91 are continuously appropriated for expenditure without regard to fiscal years to the director exclusively for the following purposes:

(1) The reimbursement of eligible local entities, pursuant to a memorandum of understanding entered into under this section, from the funds which are received from permit fees authorized in Section 2150; for costs incurred by the eligible local entities in the administration and enforcement of any provision concerning the possession of, handling of, care for, or holding facilities provided for, a wild animal designated pursuant to Section 2118, by any person; and, from the funds which are received from inspection fees authorized in Section 3005.91, for costs incurred by the eligible local entities in the administration and enforcement of any provision concerning the possession of, handling of, care for, or holding facilities provided for, a cat specified in Section 3005.9, by any person.

(2) To pay the costs incurred by the department in administering and enforcing any provision concerning the possession of, handling of, care for, or holding facilities provided for, a wild animal designated pursuant to Section 2118 or a cat specified in Section 3005.9, by any person.

(b) On or before January 1, 1987, the director shall enter into memorandums of understanding with eligible local entities for the administration and enforcement of any provision concerning the possession of, handling of, care for, or holding facilities provided for,

a wild animal designated pursuant to Section 2118, or a cat specified in Section 3005.9.

(c) For purposes of this division, "eligible local entity" means a county, local animal control officer, local humane society official, an educational institution, or trained private individual which enters into a memorandum of understanding with the director pursuant to this section.

SEC. 2. Section 2150 of the Fish and Game Code is amended to read:

2150. (a) The department or an eligible local entity, in cooperation with the Department of Food and Agriculture, may, upon application, issue a written permit to import into, possess, or transport within this state any wild animal enumerated in, or designated pursuant to, Section 2118, upon determination that the animal is not detrimental or that no damage or detriment can be caused to agriculture, to native wildlife, to the public health or safety, or to the welfare of the animal, as a result of the importation, transportation, or possession.

A permit shall be issued only upon application and payment of a nonrefundable application fee in an amount determined by the director to be sufficient to carry out this chapter. Fees generated by the applications shall be expended pursuant to Section 2150.1. Application forms shall be provided by the department, or an eligible local entity, and shall be designed to ascertain the applicant's ability to properly care for the wild animal or animals he seeks to import, transport, or possess. Proper care includes providing adequate food, shelter, and veterinary care, and other requirements the commission may designate.

(b) The commission shall revoke or deny a permit if it finds that a permittee or applicant has failed to meet, or is unable to meet, the requirements for importing, transporting, possessing, or confining any wild animal as established pursuant to Section 2120.

(c) A zoo is exempt from any requirement for the payment of an application fee for a permit issued pursuant to this chapter, and is exempt from any permit requirement pursuant to this chapter except for animals whose importation, transportation, or possession is determined by the department, in cooperation with the Department of Food and Agriculture, to be detrimental or cause damage to agriculture, to native wildlife, or to the public health or safety. For purposes of this section, "zoo" means any organization which is accredited as meeting the standards and requirements of the American Association of Zoological Parks and Aquariums (AAZPA). Any organization which is not accredited by the AAZPA may apply to the department for a waiver of specified permit requirements of this chapter. The department may grant or deny such waiver for justified reasons for periods not to exceed one year. Any organization may appeal the determination of the department to the commission. However, "zoo" does not mean an organization whose animals are displayed or made to perform for profit.

(d) An exhibitor licensed by the United States Department of Agriculture or a dealer who is so licensed who buys any animal specified in subdivision (c) from a zoo within the state, may sell or transfer it only to a private individual who has a permit issued pursuant to this section prior to the receipt of the animal or to a public or private organization which has a permit issued pursuant to this section prior to the receipt of the animal. The exhibitor or dealer who sells or transfers such an animal shall pay the fee specified in Section 2150.2 to the department.

(e) Any university, college, governmental research agency, or other bona fide scientific institution, as determined by the department, engaging in scientific or public health research is exempt from any requirement for the payment of an application fee for a permit issued pursuant to this chapter, and is exempt from any permit requirement pursuant to this chapter except for animals whose importation, transportation, or possession is determined by the department, in cooperation with the Department of Food and Agriculture, to be detrimental or cause damage to agriculture, to native wildlife, or to the public health or safety.

SEC. 3. Section 2150.1 is added to the Fish and Game Code, to read:

2150.1. Fees generated by the permit applications pursuant to subdivision (a) of Section 2150 shall be expended exclusively for the administration and enforcement of this chapter by the department and by eligible local entities pursuant to Section 2020.

SEC. 4. Section 2150.2 is added to the Fish and Game Code, to read:

2150.2. The department shall establish a fee to generate an amount equal to all its administrative costs to process the sale or transfer of any animal, as provided in subdivision (d) of Section 2150, to a private individual or a public or private organization who has a permit issued pursuant to Section 2150 prior to the receipt of the animal.

SEC. 5. Section 2150.3 is added to the Fish and Game Code, to read:

2150.3. (a) The director shall appoint a committee to advise the director on the humane care and treatment of wild animals.

(b) The committee shall make recommendations to the director for the establishment of standards of performance for administration and enforcement, which shall include, but are not limited to, requiring that the eligible local entity possess a knowledge of humane wild animal training methods.

(c) The committee shall make recommendations to the director as to the frequency of inspections necessary for the enforcement and administration of any provision concerning the possession of, handling of, care for, or holding facilities provided for, a wild animal designated pursuant to Section 2118, or a cat specified in Section 3005.9.

(d) The committee shall advise and assist the director in entering

into memorandums of understanding with eligible local entities and in determining whether the memorandums of understanding meet the requirements of this chapter.

SEC. 6. Section 2150.4 is added to the Fish and Game Code, to read:

2150.4. (a) Consistent with Section 3005.91, the department or an eligible local entity shall inspect the wild animal facilities, as determined by the director's advisory committee, of each person holding a permit issued pursuant to Section 2150 authorizing the possession of a wild animal.

(b) In addition to the inspections specified in subdivision (a), the department or an eligible local entity, pursuant to the regulations of the commission, may inspect the facilities and care provided for the wild animal of any person holding a permit issued pursuant to Section 2150 or the facilities and care provided for any wild animal in any zoo, for the purpose of determining whether the animal is being cared for in accordance with all applicable statutes and regulations. The department or the eligible local entity, whichever conducts the inspection, shall collect an inspection fee, in an amount determined by the department to be sufficient to cover the costs of each inspection. If the eligible local agency conducts the inspection, it shall transmit the fee to the department, for expenditure pursuant to Section 2020.

SEC. 7. Section 3005.9 of the Fish and Game Code is amended to read:

3005.9. (a) It is unlawful to possess or confine any live cat (family Felidae), except house cats (Felis domesticus), except as provided in this division and in Section 3202. Any cat possessed or confined in violation of this section may be seized by the department for disposal as directed by the commission.

The commission shall adopt regulations permitting the temporary confinement of cats, other than house cats, for the purpose of required veterinary treatment or care, or for utilization in television or motion picture productions.

The following institutions, as defined, are exempt from this section:

(1) Any zoo, as defined in Section 2150.

(2) Any university, college, governmental research agency, or other bona fide scientific institution, as determined by the department, engaging in scientific or public health research.

(b) The following organizations or individuals, as defined by the commission, in compliance with permits and standards, as specified by the commission, that safeguard the health and well-being of cats are exempt from the provisions of subdivision (a):

(1) Circuses.

(2) Other professional exhibitors qualified by the department and licensed by the United States Department of Agriculture.

(3) Dealers and breeders qualified by the department and licensed by the United States Department of Agriculture.

(4) Wildlife rehabilitation centers, as qualified by the department.

(c) Subdivision (a) of this section shall not prohibit the possession or confinement of any cat by a person who had lawful possession of the cat on January 1, 1979, pursuant to a permit issued by the department under Section 2150 or Section 3200. The annual fee for the permit shall be set by the department in an amount calculated to cover the costs of administration. Progeny determined to have been conceived before January 1, 1979, are exempt from subdivision (a) of Section 3005.9 but are subject to department regulations regarding their possession or confinement.

(d) Cats possessed pursuant to subdivisions (b) and (c) of this section may be sold, transferred, or disposed of to the institutions or individuals defined as exempt under this section, when the sale, transfer or disposal is pursuant to a department permit. The permit shall specify the terms and conditions of sale, transfer, or disposal. These cats shall not be sold, transferred, or disposed of to private individuals.

The commission shall adopt regulations regarding the possession or confinement of progeny determined to have been conceived after January 1, 1979. These cats may be sold, transferred, or disposed of to the institutions defined as exempt under this section, when the sale, transfer, or disposal is pursuant to a department permit. The permit shall specify the terms and conditions of sale, transfer, or disposal. These cats shall not be sold, transferred, or disposed of to private individuals.

This section does not apply to the lawful taking of mammals found to be injuring crops or property, or to the taking of mammals under depredation permits, or to the lawful taking of these mammals as authorized by the commission.

SEC. 8. Section 3005.91 of the Fish and Game Code is amended to read:

3005.91. The department or an eligible local entity, pursuant to regulations of the commission, shall inspect the cat facilities of each person holding a permit issued pursuant to regulations of the commission authorizing the possession of a cat, other than a house cat. These inspections shall be to ensure that the animal is being held in conformity with law. The department or an eligible local entity shall collect an inspection fee in an amount determined by the department to be sufficient to cover the costs of each inspection. The fee shall be paid over to the department, as specified in Section 2020.

SEC. 9. No reimbursement is required by this act pursuant to 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 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 1020

An act to amend Section 14132 of the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor September 25, 1985. Filed with Secretary of State September 26, 1985.]

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

SECTION 1. Section 14132 of the Welfare and Institutions Code is amended to read:

14132. The following is the schedule of benefits under this chapter:

(a) Outpatient services are covered as follows:

Physician, hospital or clinic outpatient, surgical center, optometric, chiropractic, psychology, podiatric, occupational therapy, physical therapy, speech therapy, audiology, acupuncture to the extent federal matching funds are provided for acupuncture, and services of persons rendering treatment by prayer or healing by spiritual means in the practice of any church or religious denomination insofar as these can be encompassed by federal participation under an approved plan, subject to utilization controls.

(b) Inpatient hospital services, including, but not limited to, physician and podiatric services, physical therapy and occupational therapy, are covered subject to utilization controls.

(c) Skilled nursing facility services, including podiatry, physician, nurse practitioner services, and prescribed drugs, as described in subdivision (d), are covered subject to utilization controls. Physical therapy, occupational therapy, speech therapy, and audiology services for patients in skilled nursing facilities are covered subject to utilization controls.

(d) Purchase of prescribed drugs is covered subject to the Medi-Cal Drug Formulary and utilization controls.

(e) Outpatient dialysis services and home hemodialysis services, including physician services, medical supplies, drugs and equipment required for dialysis, are covered, subject to utilization controls.

(f) Anesthesiologist services when provided as part of an outpatient medical procedure, nurse anesthetists services when rendered in an inpatient or outpatient setting under conditions set forth by the director, outpatient laboratory services, and X-ray services are covered to the extent prescribed.

(g) Blood and blood derivatives are covered.

(h) Emergency and essential diagnostic and restorative dental services, except for orthodontic, fixed bridgework, and partial dentures that are not necessary for balance of a complete artificial denture, are covered, subject to utilization controls. The utilization controls shall allow emergency and essential diagnostic and restorative dental services and prostheses that are necessary to

prevent a significant disability or to replace previously furnished prostheses which are lost or destroyed due to circumstances beyond the beneficiary's control. Notwithstanding the foregoing, the director may by regulation provide for certain fixed artificial dentures necessary for obtaining employment or for medical conditions which preclude the use of removable dental prostheses, and for orthodontic services in cleft palate deformities administered by the department's crippled children services program.

(i) Medical transportation is covered, subject to utilization controls.

(j) Home health care services are covered, subject to utilization controls.

(k) Prosthetic and orthotic devices and eyeglasses are covered, subject to utilization controls. Utilization controls shall allow replacement of prosthetic and orthotic devices and eyeglasses necessary because of loss or destruction due to circumstances beyond the beneficiary's control. Frame styles for eyeglasses replaced pursuant to this subdivision shall not change more than once every two years, unless the department so directs.

Orthopedic and conventional shoes are covered when provided by a prosthetic and orthotic supplier on the prescription of a physician and when at least one of the shoes will be attached to a prosthesis or brace, subject to utilization controls. Modification of stock conventional or orthopedic shoes when medically indicated, is covered subject to utilization controls. When there is a clearly established medical need that cannot be satisfied by the modification of stock conventional or orthopedic shoes, custom-made orthopedic shoes are covered, subject to utilization controls.

(*l*) Hearing aids are covered, subject to utilization controls. Utilization controls shall allow replacement of hearing aids necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(m) Durable medical equipment and medical supplies are covered, subject to utilization controls. The utilization controls shall allow the replacement of durable medical equipment and medical supplies when necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(n) Intermediate care facility services, including physician services, nurse practitioner services pursuant to Section 14115.6, and prescribed drugs as described in subdivision (d) are covered, subject to utilization controls. Physical therapy, occupational therapy, speech therapy and audiology services for patients in intermediate care facilities are covered subject to utilization controls.

(o) Family planning services are covered, subject to utilization controls.

(p) Inpatient intensive rehabilitation hospital services in a general acute care hospital are covered, subject to utilization controls, when the following criteria are met:

(1) A patient with a permanent disability or severe impairment

requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to develop function beyond the limited amount that would occur in the normal course of recovery; or

(2) A patient with a chronic or progressive disease requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to maintain the patient's present functional level as long as possible.

(q) Adult day health care is covered in accordance with the provisions of Chapter 8.7 (commencing with Section 14520) of this part.

(r) Application of fluoride, or other appropriate fluoride treatment as defined by the department, and other prophylaxis treatment for children 17 years of age and under are covered.

(s) Paramedic services performed by a city, county, or special district, or pursuant to a contract with a city, county, or special district, and pursuant to a program established under Article 3 (commencing with Section 1480) of Chapter 2.5 of Division 2 of the Health and Safety Code by a paramedic certified pursuant to that article, and consisting of defibrillation and those services specified in subdivision (3) of Section 1482 of the article.

This subdivision shall be in effect only to the extent federal financial participation is available as set forth in Section 14106.6.

(t) In-home medical care services are covered when medically appropriate and subject to utilization controls, for beneficiaries who would otherwise require care for an extended period of time in an acute care hospital at a cost higher than in-home medical care services. The director shall have the authority under this section to contract with organizations qualified to provide in-home medical care services to such persons. These services may be provided to patients placed in facilities such as skilled nursing or intermediate care facilities, or to persons in shared or congregate living arrangements, if a home setting is not medically appropriate or available to the beneficiary. As used in this section, "in-home medical care service" includes utility bills directly attributable to continuous, 24-hour operation of life-sustaining medical equipment, to the extent that federal financial participation is available.

As used in this subdivision, in-home medical care services, include, but are not limited to:

(1) Level of care and cost of care evaluations.

(2) Expenses, directly attributable to home care activities, for materials.

(3) Physician fees for home visits.

(4) Expenses directly attributable to home care activities for shelter and modification to shelter.

(5) Expenses directly attributable to additional costs of special diets, including tube feeding.

(6) Medically related personal services.

(7) Home nursing education.

(8) Emergency maintenance repair.

(9) Home health agency personnel benefits which permit coverage of care during periods when regular personnel are on vacation or using sick leave.

(10) All services needed to maintain antiseptic conditions at stoma or shunt sites on the body.

(11) Emergency and nonemergency medical transportation.

(12) Medical supplies.

(13) Medical equipment, including, but not limited to, scales, gurneys, and equipment racks suitable for paralyzed patients.

(14) Utility use directly attributable to the requirements of home care activities which are in addition to normal utility use.

(15) Special drugs and medications.

(16) Home health agency supervision of visiting staff which is medically necessary, but not included in the home health agency rate.

(17) Therapy services.

(18) Household appliances and household utensil costs directly attributable to home care activities.

(19) Modification of medical equipment for home use.

(20) Training and orientation for use of life support systems, including, but not limited to support of respiratory functions.

Beneficiaries receiving in-home medical care services are entitled to the full range of services within the Medi-Cal scope of benefits as defined by this section, subject to medical necessity and applicable utilization control. Services provided pursuant to this subdivision, which are not otherwise included in the Medi-Cal schedule of benefits, shall be available only to the extent that federal financial participation for these services is available in accordance with a home and community-based services waiver.

(u) Home and community-based services approved by the United States Department of Health and Human Services may be covered to the extent that federal financial participation is available for such services under waivers granted in accordance with Section 1915 of the federal Social Security Act. The director may seek waivers for any or all home and community-based services approvable under Section 1915 of the federal Social Security Act. Coverage for such services shall be limited by the terms, conditions, and duration of the federal waivers.

The department shall submit a report, as provided in Section 28 of the 1982 Budget Act, 30 days prior to providing these services as Medi-Cal benefits. The report shall be submitted to the Joint Legislative Budget Committee and the fiscal committees and shall address the cost effectiveness of services provided pursuant to this subdivision.

(v) Comprehensive perinatal services, as provided through an agreement with a health care provider designated in Section 14134.5 and meeting the standards developed by the department pursuant to Section 14134.5, subject to utilization controls.

The department shall seek any federal waivers necessary to

implement the provisions of this subdivision. The provisions for which appropriate federal waivers cannot be obtained shall not be implemented. Provisions for which waivers are obtained or for which waivers are not required shall be implemented notwithstanding any inability to obtain federal waivers for the other provisions. No provision of this subdivision shall be implemented unless matching funds from Title XIX of the federal Social Security Act are available.

(w) When a claim for treatment provided to a beneficiary includes both services which are authorized and reimbursable under this chapter, and services which are not reimbursable under this chapter, that portion of the claim for the treatment and services authorized and reimbursable under this chapter shall be payable.

SEC. 2. Section 14132 of the Welfare and Institutions Code is amended to read:

14132. The following is the schedule of benefits under this chapter:

(a) Outpatient services are covered as follows:

Physician, hospital or clinic outpatient, surgical center, optometric, chiropractic, psychology, podiatric, occupational therapy, physical therapy, speech therapy, audiology, acupuncture to the extent federal matching funds are provided for acupuncture, and services of persons rendering treatment by prayer or healing by spiritual means in the practice of any church or religious denomination insofar as these can be encompassed by federal participation under an approved plan, subject to utilization controls.

(b) Inpatient hospital services, including, but not limited to, physician and podiatric services, physical therapy and occupational therapy, are covered subject to utilization controls.

(c) Skilled nursing facility services, including podiatry, physician, nurse practitioner services, and prescribed drugs, as described in subdivision (d), are covered subject to utilization controls. Physical therapy, occupational therapy, speech therapy, and audiology services for patients in skilled nursing facilities are covered subject to utilization controls.

(d) Purchase of prescribed drugs is covered subject to the Medi-Cal Drug Formulary and utilization controls.

(e) Outpatient dialysis services and home hemodialysis services, including physician services, medical supplies, drugs and equipment required for dialysis, are covered, subject to utilization controls.

(f) Anesthesiologist services when provided as part of an outpatient medical procedure, nurse anesthetists services when rendered in an inpatient or outpatient setting under conditions set forth by the director, outpatient laboratory services, and X-ray services are covered to the extent prescribed.

(g) Blood and blood derivatives are covered.

(h) Emergency and essential diagnostic and restorative dental services, except for orthodontic, fixed bridgework, and partial dentures that are not necessary for balance of a complete artificial denture, are covered, subject to utilization controls. The utilization

controls shall allow emergency and essential diagnostic and restorative dental services and prostheses that are necessary to prevent a significant disability or to replace previously furnished prostheses which are lost or destroyed due to circumstances beyond the beneficiary's control. Notwithstanding the foregoing, the director may by regulation provide for certain fixed artificial dentures necessary for obtaining employment or for medical conditions which preclude the use of removable dental prostheses, and for orthodontic services in cleft palate deformities administered by the department's crippled children services program.

(i) Medical transportation is covered, subject to utilization controls.

(j) Home health care services are covered, subject to utilization controls.

(k) Prosthetic and orthotic devices and eyeglasses are covered, subject to utilization controls. Utilization controls shall allow replacement of prosthetic and orthotic devices and eyeglasses necessary because of loss or destruction due to circumstances beyond the beneficiary's control. Frame styles for eyeglasses replaced pursuant to this subdivision shall not change more than once every two years, unless the department so directs.

Orthopedic and conventional shoes are covered when provided by a prosthetic and orthotic supplier on the prescription of a physician and when at least one of the shoes will be attached to a prosthesis or brace, subject to utilization controls. Modification of stock conventional or orthopedic shoes when medically indicated, is covered subject to utilization controls. When there is a clearly established medical need that cannot be satisfied by the modification of stock conventional or orthopedic shoes, custom-made orthopedic shoes are covered, subject to utilization controls.

(*l*) Hearing aids are covered, subject to utilization controls. Utilization controls shall allow replacement of hearing aids necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(m) Durable medical equipment and medical supplies are covered, subject to utilization controls. The utilization controls shall allow the replacement of durable medical equipment and medical supplies when necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(n) Intermediate care facility services, including physician services, nurse practitioner services pursuant to Section 14115.6, and prescribed drugs as described in subdivision (d) are covered, subject to utilization controls. Physical therapy, occupational therapy, speech therapy and audiology services for patients in intermediate care facilities are covered subject to utilization controls.

(o) Family planning services are covered, subject to utilization controls.

(p) Inpatient intensive rehabilitation hospital services in a general acute care hospital are covered, subject to utilization

controls, when the following criteria are met:

(1) A patient with a permanent disability or severe impairment requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to develop function beyond the limited amount that would occur in the normal course of recovery; or

(2) A patient with a chronic or progressive disease requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to maintain the patient's present functional level as long as possible.

(q) Adult day health care is covered in accordance with the provisions of Chapter 8.7 (commencing with Section 14520) of this part.

(r) Application of fluoride, or other appropriate fluoride treatment as defined by the department, and other prophylaxis treatment for children 17 years of age and under are covered.

(s) Paramedic services performed by a city, county, or special district, or pursuant to a contract with a city, county, or special district, and pursuant to a program established under Article 3 (commencing with Section 1480) of Chapter 2.5 of Division 2 of the Health and Safety Code by a paramedic certified pursuant to that article, and consisting of defibrillation and those services specified in subdivision (3) of Section 1482 of the article.

This subdivision shall be in effect only to the extent federal financial participation is available as set forth in Section 14106.6.

(t) In-home medical care services are covered when medically appropriate and subject to utilization controls, for beneficiaries who would otherwise require care for an extended period of time in an acute care hospital at a cost higher than in-home medical care services. The director shall have the authority under this section to contract with organizations qualified to provide in-home medical care services to such persons. These services may be provided to patients placed in facilities such as skilled nursing or intermediate care facilities, or to persons in shared or congregate living arrangements, if a home setting is not medically appropriate or available to the beneficiary. As used in this section, "in-home medical care service" includes utility bills directly attributable to continuous, 24-hour operation of life-sustaining medical equipment, to the extent that federal financial participation is available.

As used in this subdivision, in-home medical care services, include, but are not limited to:

(1) Level of care and cost of care evaluations.

(2) Expenses, directly attributable to home care activities, for materials.

(3) Physician fees for home visits.

(4) Expenses directly attributable to home care activities for shelter and modification to shelter.

(5) Expenses directly attributable to additional costs of special diets, including tube feeding.

(6) Medically related personal services.

(7) Home nursing education.

(8) Emergency maintenance repair.

(9) Home health agency personnel benefits which permit coverage of care during periods when regular personnel are on vacation or using sick leave.

(10) All services needed to maintain antiseptic conditions at stoma or shunt sites on the body.

(11) Emergency and nonemergency medical transportation.

(12) Medical supplies.

(13) Medical equipment, including, but not limited to, scales, gurneys, and equipment racks suitable for paralyzed patients.

(14) Utility use directly attributable to the requirements of home care activities which are in addition to normal utility use.

(15) Special drugs and medications.

(16) Home health agency supervision of visiting staff which is medically necessary, but not included in the home health agency rate.

(17) Therapy services.

(18) Household appliances and household utensil costs directly attributable to home care activities.

(19) Modification of medical equipment for home use.

(20) Training and orientation for use of life support systems, including, but not limited to support of respiratory functions.

Beneficiaries receiving in-home medical care services are entitled to the full range of services within the Medi-Cal scope of benefits as defined by this section, subject to medical necessity and applicable utilization control. Services provided pursuant to this subdivision, which are not otherwise included in the Medi-Cal schedule of benefits, shall be available only to the extent that federal financial participation for these services is available in accordance with a home and community-based services waiver.

(u) Home and community-based services approved by the United States Department of Health and Human Services shall be covered only to the extent that federal financial participation is available for such services under waivers granted in accordance with Section 1915 of the federal Social Security Act. The director shall seek waivers for any or all home and community-based services which he or she determines are approvable under Section 1915 of the federal Social Security Act. Coverage for such services shall be limited by the terms, conditions, and duration of the federal waivers.

The department shall submit a report, as provided in Section 28 of the 1982 Budget Act, 30 days prior to providing these services as Medi-Cal benefits. The report shall be submitted to the Joint Legislative Budget Committee and the fiscal committees and shall address the cost effectiveness of services provided pursuant to this subdivision.

(v) Comprehensive perinatal services, as provided through an agreement with a health care provider designated in Section 14134.5 and meeting the standards developed by the department pursuant

to Section 14134.5, subject to utilization controls.

The department shall seek any federal waivers necessary to implement the provisions of this subdivision. The provisions for which appropriate federal waivers cannot be obtained shall not be implemented. Provisions for which waivers are obtained or for which waivers are not required shall be implemented notwithstanding any inability to obtain federal waivers for the other provisions. No provision of this subdivision shall be implemented unless matching funds from Title XIX of the federal Social Security Act are available.

(w) When a claim for treatment provided to a beneficiary includes both services which are authorized and reimbursable under this chapter, and services which are not reimbursable under this chapter, that portion of the claim for the treatment and services authorized and reimbursable under this chapter shall be payable.

SEC. 3. Section 14132 of the Welfare and Institutions Code is amended to read:

14132. The following is the schedule of benefits under this chapter:

(a) Outpatient services are covered as follows:

Physician, hospital or clinic outpatient, surgical center, optometric, chiropractic, psychology, podiatric, occupational therapy, physical therapy, speech therapy, audiology, acupuncture to the extent federal matching funds are provided for acupuncture, and services of persons rendering treatment by prayer or healing by spiritual means in the practice of any church or religious denomination insofar as these can be encompassed by federal participation under an approved plan, subject to utilization controls.

(b) Inpatient hospital services, including, but not limited to, physician and podiatric services, physical therapy and occupational therapy, are covered subject to utilization controls.

(c) Skilled nursing facility services, including podiatry, physician, nurse practitioner services, and prescribed drugs, as described in subdivision (d), are covered subject to utilization controls. Physical therapy, occupational therapy, speech therapy, and audiology services for patients in skilled nursing facilities are covered subject to utilization controls.

(d) Purchase of prescribed drugs is covered subject to the Medi-Cal Drug Formulary and utilization controls.

(e) Outpatient dialysis services and home hemodialysis services, including physician services, medical supplies, drugs and equipment required for dialysis, are covered, subject to utilization controls.

(f) Anesthesiologist services when provided as part of an outpatient medical procedure, nurse anesthetists services when rendered in an inpatient or outpatient setting under conditions set forth by the director, outpatient laboratory services, and X-ray services are covered to the extent prescribed.

(g) Blood and blood derivatives are covered.

(h) Emergency and essential diagnostic and restorative dental services, except for orthodontic, fixed bridgework, and partial

dentures that are not necessary for balance of a complete artificial denture, are covered, subject to utilization controls. The utilization controls shall allow emergency and essential diagnostic and restorative dental services and prostheses that are necessary to prevent a significant disability or to replace previously furnished prostheses which are lost or destroyed due to circumstances beyond the beneficiary's control. The department's utilization controls shall not require X-rays as a condition of reimbursement for fillings for children under 18 years of age. Notwithstanding the foregoing, the director may by regulation provide for certain fixed artificial dentures necessary for obtaining employment or for medical conditions which preclude the use of removable dental prostheses, and for orthodontic services in cleft palate deformities administered by the department's crippled children services program.

(i) Medical transportation is covered, subject to utilization controls.

(j) Home health care services are covered, subject to utilization controls.

(k) Prosthetic and orthotic devices and eyeglasses are covered, subject to utilization controls. Utilization controls shall allow replacement of prosthetic and orthotic devices and eyeglasses necessary because of loss or destruction due to circumstances beyond the beneficiary's control. Frame styles for eyeglasses replaced pursuant to this subdivision shall not change more than once every two years, unless the department so directs.

Orthopedic and conventional shoes are covered when provided by a prosthetic and orthotic supplier on the prescription of a physician and when at least one of the shoes will be attached to a prosthesis or brace, subject to utilization controls. Modification of stock conventional or orthopedic shoes when medically indicated, is covered subject to utilization controls. When there is a clearly established medical need that cannot be satisfied by the modification of stock conventional or orthopedic shoes, custom-made orthopedic shoes are covered, subject to utilization controls.

(*l*) Hearing aids are covered, subject to utilization controls. Utilization controls shall allow replacement of hearing aids necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(m) Durable medical equipment and medical supplies are covered, subject to utilization controls. The utilization controls shall allow the replacement of durable medical equipment and medical supplies when necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(n) Intermediate care facility services, including physician services, nurse practitioner services pursuant to Section 14115.6, and prescribed drugs as described in subdivision (d) are covered, subject to utilization controls. Physical therapy, occupational therapy, speech therapy and audiology services for patients in intermediate care facilities are covered subject to utilization controls.

(o) Family planning services are covered, subject to utilization controls.

(p) Inpatient intensive rehabilitation hospital services in a general acute care hospital are covered, subject to utilization controls, when the following criteria are met:

(1) A patient with a permanent disability or severe impairment requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to develop function beyond the limited amount that would occur in the normal course of recovery; or

(2) A patient with a chronic or progressive disease requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to maintain the patient's present functional level as long as possible.

(q) Adult day health care is covered in accordance with the provisions of Chapter 8.7 (commencing with Section 14520) of this part.

(r) Application of fluoride, or other appropriate fluoride treatment as defined by the department, other prophylaxis treatment for children 17 years of age and under, and dental sealants subject to appropriate utilization controls are covered.

(s) Paramedic services performed by a city, county, or special district, or pursuant to a contract with a city, county, or special district, and pursuant to a program established under Article 3 (commencing with Section 1480) of Chapter 2.5 of Division 2 of the Health and Safety Code by a paramedic certified pursuant to that article, and consisting of defibrillation and those services specified in subdivision (3) of Section 1482 of the article.

This subdivision shall be in effect only to the extent federal financial participation is available as set forth in Section 14106.6.

(t) In-home medical care services are covered when medically appropriate and subject to utilization controls, for beneficiaries who would otherwise require care for an extended period of time in an acute care hospital at a cost higher than in-home medical care services. The director shall have the authority under this section to contract with organizations qualified to provide in-home medical care services to such persons. These services may be provided to patients placed in facilities such as skilled nursing or intermediate care facilities, or to persons in shared or congregate living arrangements, if a home setting is not medically appropriate or available to the beneficiary. As used in this section, "in-home medical care service" includes utility bills directly attributable to continuous, 24-hour operation of life-sustaining medical equipment, to the extent that federal financial participation is available.

As used in this subdivision, in-home medical care services, include, but are not limited to:

(1) Level of care and cost of care evaluations.

(2) Expenses, directly attributable to home care activities, for materials.

(3) Physician fees for home visits.

(4) Expenses directly attributable to home care activities for shelter and modification to shelter.

(5) Expenses directly attributable to additional costs of special diets, including tube feeding.

(6) Medically related personal services.

(7) Home nursing education.

(8) Emergency maintenance repair.

(9) Home health agency personnel benefits which permit coverage of care during periods when regular personnel are on vacation or using sick leave.

(10) All services needed to maintain antiseptic conditions at stoma or shunt sites on the body.

(11) Emergency and nonemergency medical transportation.

(12) Medical supplies.

(13) Medical equipment, including, but not limited to, scales, gurneys, and equipment racks suitable for paralyzed patients.

(14) Utility use directly attributable to the requirements of home care activities which are in addition to normal utility use.

(15) Special drugs and medications.

(16) Home health agency supervision of visiting staff which is medically necessary, but not included in the home health agency rate.

(17) Therapy services.

(18) Household appliances and household utensil costs directly attributable to home care activities.

(19) Modification of medical equipment for home use.

(20) Training and orientation for use of life support systems, including, but not limited to support of respiratory functions.

Beneficiaries receiving in-home medical care services are entitled to the full range of services within the Medi-Cal scope of benefits as defined by this section, subject to medical necessity and applicable utilization control. Services provided pursuant to this subdivision, which are not otherwise included in the Medi-Cal schedule of benefits, shall be available only to the extent that federal financial participation for these services is available in accordance with a home and community-based services waiver.

(u) Home and community-based services approved by the United States Department of Health and Human Services may be covered to the extent that federal financial participation is available for such services under waivers granted in accordance with Section 1915 of the federal Social Security Act. The director may seek waivers for any or all home and community-based services approvable under Section 1915 of the federal Social Security Act. Coverage for such services shall be limited by the terms, conditions, and duration of the federal waivers.

The department shall submit a report, as provided in Section 28 of the 1982 Budget Act, 30 days prior to providing these services as Medi-Cal benefits. The report shall be submitted to the Joint Legislative Budget Committee and the fiscal committees and shall

address the cost effectiveness of services provided pursuant to this subdivision.

(v) Comprehensive perinatal services, as provided through an agreement with a health care provider designated in Section 14134.5 and meeting the standards developed by the department pursuant to Section 14134.5, subject to utilization controls.

The department shall seek any federal waivers necessary to implement the provisions of this subdivision. The provisions for which appropriate federal waivers cannot be obtained shall not be implemented. Provisions for which waivers are obtained or for which waivers are not required shall be implemented notwithstanding any inability to obtain federal waivers for the other provisions. No provision of this subdivision shall be implemented unless matching funds from Title XIX of the federal Social Security Act are available.

(w) Early and periodic screening, diagnosis, and treatment for any individual under 21 years of age is covered, consistent with the requirements of Title XIX of the federal Social Security Act.

(x) When a claim for treatment provided to a beneficiary includes both services which are authorized and reimbursable under this chapter, and services which are not reimbursable under this chapter, that portion of the claim for the treatment and services authorized and reimbursable under this chapter shall be payable.

SEC. 4. Section 14132 of the Welfare and Institutions Code is amended to read:

14132. The following is the schedule of benefits under this chapter:

(a) Outpatient services are covered as follows:

Physician, hospital or clinic outpatient, surgical center, optometric, chiropractic, psychology, podiatric, occupational therapy, physical therapy, speech therapy, audiology, acupuncture to the extent federal matching funds are provided for acupuncture, and services of persons rendering treatment by prayer or healing by spiritual means in the practice of any church or religious denomination insofar as these can be encompassed by federal participation under an approved plan, subject to utilization controls.

(b) Inpatient hospital services, including, but not limited to, physician and podiatric services, physical therapy and occupational therapy, are covered subject to utilization controls.

(c) Skilled nursing facility services, including podiatry, physician, nurse practitioner services, and prescribed drugs, as described in subdivision (d), are covered subject to utilization controls. Physical therapy, occupational therapy, speech therapy, and audiology services for patients in skilled nursing facilities are covered subject to utilization controls.

(d) Purchase of prescribed drugs is covered subject to the Medi-Cal Drug Formulary and utilization controls.

(e) Outpatient dialysis services and home hemodialysis services, including physician services, medical supplies, drugs and equipment required for dialysis, are covered, subject to utilization controls.

(f) Anesthesiologist services when provided as part of an outpatient medical procedure, nurse anesthetists services when rendered in an inpatient or outpatient setting under conditions set forth by the director, outpatient laboratory services, and X-ray services are covered, subject to utilization controls. Nothing in this subdivision shall be construed to require prior authorization for anesthesiologist services provided as part of an outpatient medical procedure or for portable X-ray services in an intermediate care facility or a skilled nursing facility.

(g) Blood and blood derivatives are covered.

(h) Emergency and essential diagnostic and restorative dental services, except for orthodontic, fixed bridgework, and partial dentures that are not necessary for balance of a complete artificial denture, are covered, subject to utilization controls. The utilization controls shall allow emergency and essential diagnostic and restorative dental services and prostheses that are necessary to prevent a significant disability or to replace previously furnished prostheses which are lost or destroyed due to circumstances beyond the beneficiary's control. Notwithstanding the foregoing, the director may by regulation provide for certain fixed artificial dentures necessary for obtaining employment or for medical conditions which preclude the use of removable dental prostheses, and for orthodontic services in cleft palate deformities administered by the department's crippled children services program.

(i) Medical transportation is covered, subject to utilization controls.

(j) Home health care services are covered, subject to utilization controls.

(k) Prosthetic and orthotic devices and eyeglasses are covered, subject to utilization controls. Utilization controls shall allow replacement of prosthetic and orthotic devices and eyeglasses necessary because of loss or destruction due to circumstances beyond the beneficiary's control. Frame styles for eyeglasses replaced pursuant to this subdivision shall not change more than once every two years, unless the department so directs.

Orthopedic and conventional shoes are covered when provided by a prosthetic and orthotic supplier on the prescription of a physician and when at least one of the shoes will be attached to a prosthesis or brace, subject to utilization controls. Modification of stock conventional or orthopedic shoes when medically indicated, is covered subject to utilization controls. When there is a clearly established medical need that cannot be satisfied by the modification of stock conventional or orthopedic shoes, custom-made orthopedic shoes are covered, subject to utilization controls.

(*l*) Hearing aids are covered, subject to utilization controls. Utilization controls shall allow replacement of hearing aids necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(m) Durable medical equipment and medical supplies are

covered, subject to utilization controls. The utilization controls shall allow the replacement of durable medical equipment and medical supplies when necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(n) Intermediate care facility services, including physician services, nurse practitioner services pursuant to Section 14115.6, and prescribed drugs as described in subdivision (d) are covered, subject to utilization controls. Physical therapy, occupational therapy, speech therapy and audiology services for patients in intermediate care facilities are covered subject to utilization controls.

(o) Family planning services are covered, subject to utilization controls.

(p) Inpatient intensive rehabilitation hospital services in a general acute care hospital are covered, subject to utilization controls, when the following criteria are met:

(1) A patient with a permanent disability or severe impairment requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to develop function beyond the limited amount that would occur in the normal course of recovery; or

(2) A patient with a chronic or progressive disease requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to maintain the patient's present functional level as long as possible.

(q) Adult day health care is covered in accordance with the provisions of Chapter 8.7 (commencing with Section 14520) of this part.

(r) Application of fluoride, or other appropriate fluoride treatment as defined by the department, and other prophylaxis treatment for children 17 years of age and under are covered.

(s) Paramedic services performed by a city, county, or special district, or pursuant to a contract with a city, county, or special district, and pursuant to a program established under Article 3 (commencing with Section 1480) of Chapter 2.5 of Division 2 of the Health and Safety Code by a paramedic certified pursuant to that article, and consisting of defibrillation and those services specified in subdivision (3) of Section 1482 of the article.

This subdivision shall be in effect only to the extent federal financial participation is available as set forth in Section 14106.6.

(t) In-home medical care services are covered when medically appropriate and subject to utilization controls, for beneficiaries who would otherwise require care for an extended period of time in an acute care hospital at a cost higher than in-home medical care services. The director shall have the authority under this section to contract with organizations qualified to provide in-home medical care services to such persons. These services may be provided to patients placed in facilities such as skilled nursing or intermediate care facilities, or to persons in shared or congregate living arrangements, if a home setting is not medically appropriate or available to the beneficiary. As used in this section, "in-home medical

care service" includes utility bills directly attributable to continuous, 24-hour operation of life-sustaining medical equipment, to the extent that federal financial participation is available.

As used in this subdivision, in-home medical care services, include, but are not limited to:

(1) Level of care and cost of care evaluations.

(2) Expenses, directly attributable to home care activities, for materials.

(3) Physician fees for home visits.

(4) Expenses directly attributable to home care activities for shelter and modification to shelter.

(5) Expenses directly attributable to additional costs of special diets, including tube feeding.

(6) Medically related personal services.

(7) Home nursing education.

(8) Emergency maintenance repair.

(9) Home health agency personnel benefits which permit coverage of care during periods when regular personnel are on vacation or using sick leave.

(10) All services needed to maintain antiseptic conditions at stoma or shunt sites on the body.

(11) Emergency and nonemergency medical transportation.

(12) Medical supplies.

(13) Medical equipment, including, but not limited to, scales, gurneys, and equipment racks suitable for paralyzed patients.

(14) Utility use directly attributable to the requirements of home care activities which are in addition to normal utility use.

(15) Special drugs and medications.

(16) Home health agency supervision of visiting staff which is medically necessary, but not included in the home health agency rate.

(17) Therapy services.

(18) Household appliances and household utensil costs directly attributable to home care activities.

(19) Modification of medical equipment for home use.

(20) Training and orientation for use of life support systems, including, but not limited to support of respiratory functions.

Beneficiaries receiving in-home medical care services are entitled to the full range of services within the Medi-Cal scope of benefits as defined by this section, subject to medical necessity and applicable utilization control. Services provided pursuant to this subdivision, which are not otherwise included in the Medi-Cal schedule of benefits, shall be available only to the extent that federal financial participation for these services is available in accordance with a home and community-based services waiver.

(u) Home and community-based services approved by the United States Department of Health and Human Services may be covered to the extent that federal financial participation is available for such services under waivers granted in accordance with Section 1915 of

the federal Social Security Act. The director may seek waivers for any or all home and community-based services approvable under Section 1915 of the federal Social Security Act. Coverage for such services shall be limited by the terms, conditions, and duration of the federal waivers.

The department shall submit a report, as provided in Section 28 of the 1982 Budget Act, 30 days prior to providing these services as Medi-Cal benefits. The report shall be submitted to the Joint Legislative Budget Committee and the fiscal committees and shall address the cost effectiveness of services provided pursuant to this subdivision.

(v) Comprehensive perinatal services, as provided through an agreement with a health care provider designated in Section 14134.5 and meeting the standards developed by the department pursuant to Section 14134.5, subject to utilization controls.

The department shall seek any federal waivers necessary to implement the provisions of this subdivision. The provisions for which appropriate federal waivers cannot be obtained shall not be implemented. Provisions for which waivers are obtained or for which waivers are not required shall be implemented notwithstanding any inability to obtain federal waivers for the other provisions. No provision of this subdivision shall be implemented unless matching funds from Title XIX of the federal Social Security Act are available.

(w) When a claim for treatment provided to a beneficiary includes both services which are authorized and reimbursable under this chapter, and services which are not reimbursable under this chapter, that portion of the claim for the treatment and services authorized and reimbursable under this chapter shall be payable.

SEC. 5. Section 14132 of the Welfare and Institutions Code is amended to read:

14132. The following is the schedule of benefits under this chapter:

(a) Outpatient services are covered as follows:

Physician, hospital or clinic outpatient, surgical center, optometric, chiropractic, psychology, podiatric, occupational therapy, physical therapy, speech therapy, audiology, acupuncture to the extent federal matching funds are provided for acupuncture, and services of persons rendering treatment by prayer or healing by spiritual means in the practice of any church or religious denomination insofar as these can be encompassed by federal participation under an approved plan, subject to utilization controls.

(b) Inpatient hospital services, including, but not limited to, physician and podiatric services, physical therapy and occupational therapy, are covered subject to utilization controls.

(c) Skilled nursing facility services, including podiatry, physician, nurse practitioner services, and prescribed drugs, as described in subdivision (d), are covered subject to utilization controls. Physical therapy, occupational therapy, speech therapy, and audiology services for patients in skilled nursing facilities are covered subject

to utilization controls.

(d) Purchase of prescribed drugs is covered subject to the Medi-Cal Drug Formulary and utilization controls.

(e) Outpatient dialysis services and home hemodialysis services, including physician services, medical supplies, drugs and equipment required for dialysis, are covered, subject to utilization controls.

(f) Anesthesiologist services when provided as part of an outpatient medical procedure, nurse anesthetists services when rendered in an inpatient or outpatient setting under conditions set forth by the director, outpatient laboratory services, and X-ray services are covered to the extent prescribed.

(g) Blood and blood derivatives are covered.

(h) Emergency and essential diagnostic and restorative dental services, except for orthodontic, fixed bridgework, and partial dentures that are not necessary for balance of a complete artificial denture, are covered, subject to utilization controls. The utilization controls shall allow emergency and essential diagnostic and restorative dental services and prostheses that are necessary to prevent a significant disability or to replace previously furnished prostheses which are lost or destroyed due to circumstances beyond the beneficiary's control. The department's utilization controls shall not require X-rays as a condition of reimbursement for fillings for children under 18 years of age. Notwithstanding the foregoing, the director may by regulation provide for certain fixed artificial dentures necessary for obtaining employment or for medical conditions which preclude the use of removable dental prostheses, and for orthodontic services in cleft palate deformities administered by the department's crippled children services program.

(i) Medical transportation is covered, subject to utilization controls.

(j) Home health care services are covered, subject to utilization controls.

(k) Prosthetic and orthotic devices and eyeglasses are covered, subject to utilization controls. Utilization controls shall allow replacement of prosthetic and orthotic devices and eyeglasses necessary because of loss or destruction due to circumstances beyond the beneficiary's control. Frame styles for eyeglasses replaced pursuant to this subdivision shall not change more than once every two years, unless the department so directs.

Orthopedic and conventional shoes are covered when provided by a prosthetic and orthotic supplier on the prescription of a physician and when at least one of the shoes will be attached to a prosthesis or brace, subject to utilization controls. Modification of stock conventional or orthopedic shoes when medically indicated, is covered subject to utilization controls. When there is a clearly established medical need that cannot be satisfied by the modification of stock conventional or orthopedic shoes, custom-made orthopedic shoes are covered, subject to utilization controls.

(*l*) Hearing aids are covered, subject to utilization controls.

Utilization controls shall allow replacement of hearing aids necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(m) Durable medical equipment and medical supplies are covered, subject to utilization controls. The utilization controls shall allow the replacement of durable medical equipment and medical supplies when necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(n) Intermediate care facility services, including physician services, nurse practitioner services pursuant to Section 14115.6, and prescribed drugs as described in subdivision (d) are covered, subject to utilization controls. Physical therapy, occupational therapy, speech therapy and audiology services for patients in intermediate care facilities are covered subject to utilization controls.

(o) Family planning services are covered, subject to utilization controls.

(p) Inpatient intensive rehabilitation hospital services in a general acute care hospital are covered, subject to utilization controls, when the following criteria are met:

(1) A patient with a permanent disability or severe impairment requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to develop function beyond the limited amount that would occur in the normal course of recovery; or

(2) A patient with a chronic or progressive disease requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to maintain the patient's present functional level as long as possible.

(q) Adult day health care is covered in accordance with the provisions of Chapter 8.7 (commencing with Section 14520) of this part.

(r) Application of fluoride, or other appropriate fluoride treatment as defined by the department, other prophylaxis treatment for children 17 years of age and under, and dental sealants subject to appropriate utilization controls are covered.

(s) Paramedic services performed by a city, county, or special district, or pursuant to a contract with a city, county, or special district, and pursuant to a program established under Article 3 (commencing with Section 1480) of Chapter 2.5 of Division 2 of the Health and Safety Code by a paramedic certified pursuant to that article, and consisting of defibrillation and those services specified in subdivision (3) of Section 1482 of the article.

This subdivision shall be in effect only to the extent federal financial participation is available as set forth in Section 14106.6.

(t) In-home medical care services are covered when medically appropriate and subject to utilization controls, for beneficiaries who would otherwise require care for an extended period of time in an acute care hospital at a cost higher than in-home medical care services. The director shall have the authority under this section to contract with organizations qualified to provide in-home medical

care services to such persons. These services may be provided to patients placed in facilities such as skilled nursing or intermediate care facilities, or to persons in shared or congregate living arrangements, if a home setting is not medically appropriate or available to the beneficiary. As used in this section, "in-home medical care service" includes utility bills directly attributable to continuous, 24-hour operation of life-sustaining medical equipment, to the extent that federal financial participation is available.

As used in this subdivision, in-home medical care services, include, but are not limited to:

(1) Level of care and cost of care evaluations.

(2) Expenses, directly attributable to home care activities, for materials.

(3) Physician fees for home visits.

(4) Expenses directly attributable to home care activities for shelter and modification to shelter.

(5) Expenses directly attributable to additional costs of special diets, including tube feeding.

(6) Medically related personal services.

(7) Home nursing education.

(8) Emergency maintenance repair.

(9) Home health agency personnel benefits which permit coverage of care during periods when regular personnel are on vacation or using sick leave.

(10) All services needed to maintain antiseptic conditions at stoma or shunt sites on the body.

(11) Emergency and nonemergency medical transportation.

(12) Medical supplies.

(13) Medical equipment, including, but not limited to, scales, gurneys, and equipment racks suitable for paralyzed patients.

(14) Utility use directly attributable to the requirements of home care activities which are in addition to normal utility use.

(15) Special drugs and medications.

(16) Home health agency supervision of visiting staff which is medically necessary, but not included in the home health agency rate.

(17) Therapy services.

(18) Household appliances and household utensil costs directly attributable to home care activities.

(19) Modification of medical equipment for home use.

(20) Training and orientation for use of life support systems, including, but not limited to support of respiratory functions.

Beneficiaries receiving in-home medical care services are entitled to the full range of services within the Medi-Cal scope of benefits as defined by this section, subject to medical necessity and applicable utilization control. Services provided pursuant to this subdivision, which are not otherwise included in the Medi-Cal schedule of benefits, shall be available only to the extent that federal financial participation for these services is available in accordance with a

home and community-based services waiver.

(u) Home and community-based services approved by the United States Department of Health and Human Services shall be covered only to the extent that federal financial participation is available for such services under waivers granted in accordance with Section 1915 of the federal Social Security Act. The director shall seek waivers for any or all home and community-based services which he or she determines are approvable under Section 1915 of the federal Social Security Act. Coverage for such services shall be limited by the terms, conditions, and duration of the federal waivers.

The department shall submit a report, as provided in Section 28 of the 1982 Budget Act, 30 days prior to providing these services as Medi-Cal benefits. The report shall be submitted to the Joint Legislative Budget Committee and the fiscal committees and shall address the cost effectiveness of services provided pursuant to this subdivision.

(v) Comprehensive perinatal services, as provided through an agreement with a health care provider designated in Section 14134.5 and meeting the standards developed by the department pursuant to Section 14134.5, subject to utilization controls.

The department shall seek any federal waivers necessary to implement the provisions of this subdivision. The provisions for which appropriate federal waivers cannot be obtained shall not be implemented. Provisions for which waivers are obtained or for which waivers are not required shall be implemented notwithstanding any inability to obtain federal waivers for the other provisions. No provision of this subdivision shall be implemented unless matching funds from Title XIX of the federal Social Security Act are available.

(w) Early and periodic screening, diagnosis, and treatment for any individual under 21 years of age is covered, consistent with the requirements of Title XIX of the federal Social Security Act.

(x) When a claim for treatment provided to a beneficiary includes both services which are authorized and reimbursable under this chapter, and services which are not reimbursable under this chapter, that portion of the claim for the treatment and services authorized and reimbursable under this chapter shall be payable.

SEC. 6. Section 14132 of the Welfare and Institutions Code is amended to read:

14132. The following is the schedule of benefits under this chapter:

(a) Outpatient services are covered as follows:

Physician, hospital or clinic outpatient, surgical center, optometric, chiropractic, psychology, podiatric, occupational therapy, physical therapy, speech therapy, audiology, acupuncture to the extent federal matching funds are provided for acupuncture, and services of persons rendering treatment by prayer or healing by spiritual means in the practice of any church or religious denomination insofar as these can be encompassed by federal participation under an approved plan, subject to utilization controls.

(b) Inpatient hospital services, including, but not limited to, physician and podiatric services, physical therapy and occupational therapy, are covered subject to utilization controls.

(c) Skilled nursing facility services, including podiatry, physician, nurse practitioner services, and prescribed drugs, as described in subdivision (d), are covered subject to utilization controls. Physical therapy, occupational therapy, speech therapy, and audiology services for patients in skilled nursing facilities are covered subject to utilization controls.

(d) Purchase of prescribed drugs is covered subject to the Medi-Cal Drug Formulary and utilization controls.

(e) Outpatient dialysis services and home hemodialysis services, including physician services, medical supplies, drugs and equipment required for dialysis, are covered, subject to utilization controls.

(f) Anesthesiologist services when provided as part of an outpatient medical procedure, nurse anesthetists services when rendered in an inpatient or outpatient setting under conditions set forth by the director, outpatient laboratory services, and X-ray services are covered, subject to utilization controls. Nothing in this subdivision shall be construed to require prior authorization for anesthesiologist services provided as part of an outpatient medical procedure or for portable X-ray services in an intermediate care facility or a skilled nursing facility.

(g) Blood and blood derivatives are covered.

(h) Emergency and essential diagnostic and restorative dental services, except for orthodontic, fixed bridgework, and partial dentures that are not necessary for balance of a complete artificial denture, are covered, subject to utilization controls. The utilization controls shall allow emergency and essential diagnostic and restorative dental services and prostheses that are necessary to prevent a significant disability or to replace previously furnished prostheses which are lost or destroyed due to circumstances beyond the beneficiary's control. Notwithstanding the foregoing, the director may by regulation provide for certain fixed artificial dentures necessary for obtaining employment or for medical conditions which preclude the use of removable dental prostheses, and for orthodontic services in cleft palate deformities administered by the department's crippled children services program.

(i) Medical transportation is covered, subject to utilization controls.

(j) Home health care services are covered, subject to utilization controls.

(k) Prosthetic and orthotic devices and eyeglasses are covered, subject to utilization controls. Utilization controls shall allow replacement of prosthetic and orthotic devices and eyeglasses necessary because of loss or destruction due to circumstances beyond the beneficiary's control. Frame styles for eyeglasses replaced pursuant to this subdivision shall not change more than once every two years, unless the department so directs.

Orthopedic and conventional shoes are covered when provided by a prosthetic and orthotic supplier on the prescription of a physician and when at least one of the shoes will be attached to a prosthesis or brace, subject to utilization controls. Modification of stock conventional or orthopedic shoes when medically indicated, is covered subject to utilization controls. When there is a clearly established medical need that cannot be satisfied by the modification of stock conventional or orthopedic shoes, custom-made orthopedic shoes are covered, subject to utilization controls.

(*l*) Hearing aids are covered, subject to utilization controls. Utilization controls shall allow replacement of hearing aids necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(m) Durable medical equipment and medical supplies are covered, subject to utilization controls. The utilization controls shall allow the replacement of durable medical equipment and medical supplies when necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(n) Intermediate care facility services, including physician services, nurse practitioner services pursuant to Section 14115.6, and prescribed drugs as described in subdivision (d) are covered, subject to utilization controls. Physical therapy, occupational therapy, speech therapy and audiology services for patients in intermediate care facilities are covered subject to utilization controls.

(o) Family planning services are covered, subject to utilization controls.

(p) Inpatient intensive rehabilitation hospital services in a general acute care hospital are covered, subject to utilization controls, when the following criteria are met:

(1) A patient with a permanent disability or severe impairment requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to develop function beyond the limited amount that would occur in the normal course of recovery; or

(2) A patient with a chronic or progressive disease requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to maintain the patient's present functional level as long as possible.

(q) Adult day health care is covered in accordance with the provisions of Chapter 8.7 (commencing with Section 14520) of this part.

(r) Application of fluoride, or other appropriate fluoride treatment as defined by the department, and other prophylaxis treatment for children 17 years of age and under are covered.

(s) Paramedic services performed by a city, county, or special district, or pursuant to a contract with a city, county, or special district, and pursuant to a program established under Article 3 (commencing with Section 1480) of Chapter 2.5 of Division 2 of the Health and Safety Code by a paramedic certified pursuant to that article, and consisting of defibrillation and those services specified in

subdivision (3) of Section 1482 of the article.

This subdivision shall be in effect only to the extent federal financial participation is available as set forth in Section 14106.6.

(t) In-home medical care services are covered when medically appropriate and subject to utilization controls, for beneficiaries who would otherwise require care for an extended period of time in an acute care hospital at a cost higher than in-home medical care services. The director shall have the authority under this section to contract with organizations qualified to provide in-home medical care services to such persons. These services may be provided to patients placed in facilities such as skilled nursing or intermediate care facilities, or to persons in shared or congregate living arrangements, if a home setting is not medically appropriate or available to the beneficiary. As used in this section, "in-home medical care service" includes utility bills directly attributable to continuous, 24-hour operation of life-sustaining medical equipment, to the extent that federal financial participation is available.

As used in this subdivision, in-home medical care services, include, but are not limited to:

(1) Level of care and cost of care evaluations.

(2) Expenses, directly attributable to home care activities, for materials.

(3) Physician fees for home visits.

(4) Expenses directly attributable to home care activities for shelter and modification to shelter.

(5) Expenses directly attributable to additional costs of special diets, including tube feeding.

(6) Medically related personal services.

(7) Home nursing education.

(8) Emergency maintenance repair.

(9) Home health agency personnel benefits which permit coverage of care during periods when regular personnel are on vacation or using sick leave.

(10) All services needed to maintain antiseptic conditions at stoma or shunt sites on the body.

(11) Emergency and nonemergency medical transportation.

(12) Medical supplies.

(13) Medical equipment, including, but not limited to, scales, gurneys, and equipment racks suitable for paralyzed patients.

(14) Utility use directly attributable to the requirements of home care activities which are in addition to normal utility use.

(15) Special drugs and medications.

(16) Home health agency supervision of visiting staff which is medically necessary, but not included in the home health agency rate.

(17) Therapy services.

(18) Household appliances and household utensil costs directly attributable to home care activities.

(19) Modification of medical equipment for home use.

(20) Training and orientation for use of life support systems, including, but not limited to support of respiratory functions.

Beneficiaries receiving in-home medical care services are entitled to the full range of services within the Medi-Cal scope of benefits as defined by this section, subject to medical necessity and applicable utilization control. Services provided pursuant to this subdivision, which are not otherwise included in the Medi-Cal schedule of benefits, shall be available only to the extent that federal financial participation for these services is available in accordance with a home and community-based services waiver.

(u) Home and community-based services approved by the United States Department of Health and Human Services shall be covered only to the extent that federal financial participation is available for such services under waivers granted in accordance with Section 1915 of the federal Social Security Act. The director shall seek waivers for any or all home and community-based services which he or she determines are approvable under Section 1915 of the federal Social Security Act. Coverage for such services shall be limited by the terms, conditions, and duration of the federal waivers.

The department shall submit a report, as provided in Section 28 of the 1982 Budget Act, 30 days prior to providing these services as Medi-Cal benefits. The report shall be submitted to the Joint Legislative Budget Committee and the fiscal committees and shall address the cost effectiveness of services provided pursuant to this subdivision.

(v) Comprehensive perinatal services, as provided through an agreement with a health care provider designated in Section 14134.5 and meeting the standards developed by the department pursuant to Section 14134.5, subject to utilization controls.

The department shall seek any federal waivers necessary to implement the provisions of this subdivision. The provisions for which appropriate federal waivers cannot be obtained shall not be implemented. Provisions for which waivers are obtained or for which waivers are not required shall be implemented notwithstanding any inability to obtain federal waivers for the other provisions. No provision of this subdivision shall be implemented unless matching funds from Title XIX of the federal Social Security Act are available.

(w) When a claim for treatment provided to a beneficiary includes both services which are authorized and reimbursable under this chapter, and services which are not reimbursable under this chapter, that portion of the claim for the treatment and services authorized and reimbursable under this chapter shall be payable.

SEC. 7. Section 14132 of the Welfare and Institutions Code is amended to read:

14132. The following is the schedule of benefits under this chapter:

(a) Outpatient services are covered as follows:

Physician, hospital or clinic outpatient, surgical center, optometric, chiropractic, psychology, podiatric, occupational

therapy, physical therapy, speech therapy, audiology, acupuncture to the extent federal matching funds are provided for acupuncture, and services of persons rendering treatment by prayer or healing by spiritual means in the practice of any church or religious denomination insofar as these can be encompassed by federal participation under an approved plan, subject to utilization controls.

(b) Inpatient hospital services, including, but not limited to, physician and podiatric services, physical therapy and occupational therapy, are covered subject to utilization controls.

(c) Skilled nursing facility services, including podiatry, physician, nurse practitioner services, and prescribed drugs, as described in subdivision (d), are covered subject to utilization controls. Physical therapy, occupational therapy, speech therapy, and audiology services for patients in skilled nursing facilities are covered subject to utilization controls.

(d) Purchase of prescribed drugs is covered subject to the Medi-Cal Drug Formulary and utilization controls.

(e) Outpatient dialysis services and home hemodialysis services, including physician services, medical supplies, drugs and equipment required for dialysis, are covered, subject to utilization controls.

(f) Anesthesiologist services when provided as part of an outpatient medical procedure, nurse anesthetists services when rendered in an inpatient or outpatient setting under conditions set forth by the director, outpatient laboratory services, and X-ray services are covered, subject to utilization controls. Nothing in this subdivision shall be construed to require prior authorization for anesthesiologist services provided as part of an outpatient medical procedure or for portable X-ray services in an intermediate care facility or a skilled nursing facility.

(g) Blood and blood derivatives are covered.

(h) Emergency and essential diagnostic and restorative dental services, except for orthodontic, fixed bridgework, and partial dentures that are not necessary for balance of a complete artificial denture, are covered, subject to utilization controls. The utilization controls shall allow emergency and essential diagnostic and restorative dental services and prostheses that are necessary to prevent a significant disability or to replace previously furnished prostheses which are lost or destroyed due to circumstances beyond the beneficiary's control. The department's utilization controls shall not require X-rays as a condition of reimbursement for fillings for children under 18 years of age. Notwithstanding the foregoing, the director may by regulation provide for certain fixed artificial dentures necessary for obtaining employment or for medical conditions which preclude the use of removable dental prostheses, and for orthodontic services in cleft palate deformities administered by the department's crippled children services program.

(i) Medical transportation is covered, subject to utilization controls.

(j) Home health care services are covered, subject to utilization

controls.

(k) Prosthetic and orthotic devices and eyeglasses are covered, subject to utilization controls. Utilization controls shall allow replacement of prosthetic and orthotic devices and eyeglasses necessary because of loss or destruction due to circumstances beyond the beneficiary's control. Frame styles for eyeglasses replaced pursuant to this subdivision shall not change more than once every two years, unless the department so directs.

Orthopedic and conventional shoes are covered when provided by a prosthetic and orthotic supplier on the prescription of a physician and when at least one of the shoes will be attached to a prosthesis or brace, subject to utilization controls. Modification of stock conventional or orthopedic shoes when medically indicated, is covered subject to utilization controls. When there is a clearly established medical need that cannot be satisfied by the modification of stock conventional or orthopedic shoes, custom-made orthopedic shoes are covered, subject to utilization controls.

(*l*) Hearing aids are covered, subject to utilization controls. Utilization controls shall allow replacement of hearing aids necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(m) Durable medical equipment and medical supplies are covered, subject to utilization controls. The utilization controls shall allow the replacement of durable medical equipment and medical supplies when necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(n) Intermediate care facility services, including physician services, nurse practitioner services pursuant to Section 14115.6, and prescribed drugs as described in subdivision (d) are covered, subject to utilization controls. Physical therapy, occupational therapy, speech therapy and audiology services for patients in intermediate care facilities are covered subject to utilization controls.

(o) Family planning services are covered, subject to utilization controls.

(p) Inpatient intensive rehabilitation hospital services in a general acute care hospital are covered, subject to utilization controls, when the following criteria are met:

(1) A patient with a permanent disability or severe impairment requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to develop function beyond the limited amount that would occur in the normal course of recovery; or

(2) A patient with a chronic or progressive disease requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to maintain the patient's present functional level as long as possible.

(q) Adult day health care is covered in accordance with the provisions of Chapter 8.7 (commencing with Section 14520) of this part.

(r) Application of fluoride, or other appropriate fluoride

treatment as defined by the department, other prophylaxis treatment for children 17 years of age and under, and dental sealants subject to appropriate utilization controls are covered.

(s) Paramedic services performed by a city, county, or special district, or pursuant to a contract with a city, county, or special district, and pursuant to a program established under Article 3 (commencing with Section 1480) of Chapter 2.5 of Division 2 of the Health and Safety Code by a paramedic certified pursuant to that article, and consisting of defibrillation and those services specified in subdivision (3) of Section 1482 of the article.

This subdivision shall be in effect only to the extent federal financial participation is available as set forth in Section 14106.6.

(t) In-home medical care services are covered when medically appropriate and subject to utilization controls, for beneficiaries who would otherwise require care for an extended period of time in an acute care hospital at a cost higher than in-home medical care services. The director shall have the authority under this section to contract with organizations qualified to provide in-home medical care services to such persons. These services may be provided to patients placed in facilities such as skilled nursing or intermediate care facilities, or to persons in shared or congregate living arrangements, if a home setting is not medically appropriate or available to the beneficiary. As used in this section, "in-home medical care service" includes utility bills directly attributable to continuous, 24-hour operation of life-sustaining medical equipment, to the extent that federal financial participation is available.

As used in this subdivision, in-home medical care services, include, but are not limited to:

(1) Level of care and cost of care evaluations.

(2) Expenses, directly attributable to home care activities, for materials.

(3) Physician fees for home visits.

(4) Expenses directly attributable to home care activities for shelter and modification to shelter.

(5) Expenses directly attributable to additional costs of special diets, including tube feeding.

(6) Medically related personal services.

(7) Home nursing education.

(8) Emergency maintenance repair.

(9) Home health agency personnel benefits which permit coverage of care during periods when regular personnel are on vacation or using sick leave.

(10) All services needed to maintain antiseptic conditions at stoma or shunt sites on the body.

(11) Emergency and nonemergency medical transportation.

(12) Medical supplies.

(13) Medical equipment, including, but not limited to, scales, gurneys, and equipment racks suitable for paralyzed patients.

(14) Utility use directly attributable to the requirements of home

care activities which are in addition to normal utility use.

(15) Special drugs and medications.

(16) Home health agency supervision of visiting staff which is medically necessary, but not included in the home health agency rate.

(17) Therapy services.

(18) Household appliances and household utensil costs directly attributable to home care activities.

(19) Modification of medical equipment for home use.

(20) Training and orientation for use of life support systems, including, but not limited to support of respiratory functions.

Beneficiaries receiving in-home medical care services are entitled to the full range of services within the Medi-Cal scope of benefits as defined by this section, subject to medical necessity and applicable utilization control. Services provided pursuant to this subdivision, which are not otherwise included in the Medi-Cal schedule of benefits, shall be available only to the extent that federal financial participation for these services is available in accordance with a home and community-based services waiver.

(u) Home and community-based services approved by the United States Department of Health and Human Services may be covered to the extent that federal financial participation is available for such services under waivers granted in accordance with Section 1915 of the federal Social Security Act. The director may seek waivers for any or all home and community-based services approvable under Section 1915 of the federal Social Security Act. Coverage for such services shall be limited by the terms, conditions, and duration of the federal waivers.

The department shall submit a report, as provided in Section 28 of the 1982 Budget Act, 30 days prior to providing these services as Medi-Cal benefits. The report shall be submitted to the Joint Legislative Budget Committee and the fiscal committees and shall address the cost effectiveness of services provided pursuant to this subdivision.

(v) Comprehensive perinatal services, as provided through an agreement with a health care provider designated in Section 14134.5 and meeting the standards developed by the department pursuant to Section 14134.5, subject to utilization controls.

The department shall seek any federal waivers necessary to implement the provisions of this subdivision. The provisions for which appropriate federal waivers cannot be obtained shall not be implemented. Provisions for which waivers are obtained or for which waivers are not required shall be implemented notwithstanding any inability to obtain federal waivers for the other provisions. No provision of this subdivision shall be implemented unless matching funds from Title XIX of the federal Social Security Act are available.

(w) Early and periodic screening, diagnosis, and treatment for any individual under 21 years of age is covered, consistent with the requirements of Title XIX of the federal Social Security Act.

(x) When a claim for treatment provided to a beneficiary includes both services which are authorized and reimbursable under this chapter, and services which are not reimbursable under this chapter, that portion of the claim for the treatment and services authorized and reimbursable under this chapter shall be payable.

SEC. 8. Section 14132 of the Welfare and Institutions Code is amended to read:

14132. The following is the schedule of benefits under this chapter:

(a) Outpatient services are covered as follows:

Physician, hospital or clinic outpatient, surgical center, optometric, chiropractic, psychology, podiatric, occupational therapy, physical therapy, speech therapy, audiology, acupuncture to the extent federal matching funds are provided for acupuncture, and services of persons rendering treatment by prayer or healing by spiritual means in the practice of any church or religious denomination insofar as these can be encompassed by federal participation under an approved plan, subject to utilization controls.

(b) Inpatient hospital services, including, but not limited to, physician and podiatric services, physical therapy and occupational therapy, are covered subject to utilization controls.

(c) Skilled nursing facility services, including podiatry, physician, nurse practitioner services, and prescribed drugs, as described in subdivision (d), are covered subject to utilization controls. Physical therapy, occupational therapy, speech therapy, and audiology services for patients in skilled nursing facilities are covered subject to utilization controls.

(d) Purchase of prescribed drugs is covered subject to the Medi-Cal Drug Formulary and utilization controls.

(e) Outpatient dialysis services and home hemodialysis services, including physician services, medical supplies, drugs and equipment required for dialysis, are covered, subject to utilization controls.

(f) Anesthesiologist services when provided as part of an outpatient medical procedure, nurse anesthetists services when rendered in an inpatient or outpatient setting under conditions set forth by the director, outpatient laboratory services, and X-ray services are covered, subject to utilization controls. Nothing in this subdivision shall be construed to require prior authorization for anesthesiologist services provided as part of an outpatient medical procedure or for portable X-ray services in an intermediate care facility or a skilled nursing facility.

(g) Blood and blood derivatives are covered.

(h) Emergency and essential diagnostic and restorative dental services, except for orthodontic, fixed bridgework, and partial dentures that are not necessary for balance of a complete artificial denture, are covered, subject to utilization controls. The utilization controls shall allow emergency and essential diagnostic and restorative dental services and prostheses that are necessary to prevent a significant disability or to replace previously furnished

prostheses which are lost or destroyed due to circumstances beyond the beneficiary's control. The department's utilization controls shall not require X-rays as a condition of reimbursement for fillings for children under 18 years of age. Notwithstanding the foregoing, the director may by regulation provide for certain fixed artificial dentures necessary for obtaining employment or for medical conditions which preclude the use of removable dental prostheses, and for orthodontic services in cleft palate deformities administered by the department's crippled children services program.

(i) Medical transportation is covered, subject to utilization controls.

(j) Home health care services are covered, subject to utilization controls.

(k) Prosthetic and orthotic devices and eyeglasses are covered, subject to utilization controls. Utilization controls shall, allow replacement of prosthetic and orthotic devices and eyeglasses necessary because of loss or destruction due to circumstances beyond the beneficiary's control. Frame styles for eyeglasses replaced pursuant to this subdivision shall not change more than once every two years, unless the department so directs.

Orthopedic and conventional shoes are covered when provided by a prosthetic and orthotic supplier on the prescription of a physician and when at least one of the shoes will be attached to a prosthesis or brace, subject to utilization controls. Modification of stock conventional or orthopedic shoes when medically indicated, is covered subject to utilization controls. When there is a clearly established medical need that cannot be satisfied by the modification of stock conventional or orthopedic shoes, custom-made orthopedic shoes are covered, subject to utilization controls.

(*l*) Hearing aids are covered, subject to utilization controls. Utilization controls shall allow replacement of hearing aids necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(m) Durable medical equipment and medical supplies are covered, subject to utilization controls. The utilization controls shall allow the replacement of durable medical equipment and medical supplies when necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(n) Intermediate care facility services, including physician services, nurse practitioner services pursuant to Section 14115.6, and prescribed drugs as described in subdivision (d) are covered, subject to utilization controls. Physical therapy, occupational therapy, speech therapy and audiology services for patients in intermediate care facilities are covered subject to utilization controls.

(o) Family planning services are covered, subject to utilization controls.

(p) Inpatient intensive rehabilitation hospital services in a general acute care hospital are covered, subject to utilization controls, when the following criteria are met:

(1) A patient with a permanent disability or severe impairment requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to develop function beyond the limited amount that would occur in the normal course of recovery; or

(2) A patient with a chronic or progressive disease requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to maintain the patient's present functional level as long as possible.

(q) Adult day health care is covered in accordance with the provisions of Chapter 8.7 (commencing with Section 14520) of this part.

(r) Application of fluoride, or other appropriate fluoride treatment as defined by the department, other prophylaxis treatment for children 17 years of age and under, and dental sealants subject to appropriate utilization controls are covered.

(s) Paramedic services performed by a city, county, or special district, or pursuant to a contract with a city, county, or special district, and pursuant to a program established under Article 3 (commencing with Section 1480) of Chapter 2.5 of Division 2 of the Health and Safety Code by a paramedic certified pursuant to that article, and consisting of defibrillation and those services specified in subdivision (3) of Section 1482 of the article.

This subdivision shall be in effect only to the extent federal financial participation is available as set forth in Section 14106.6

(t) In-home medical care services are covered when medically appropriate and subject to utilization controls, for beneficiaries who would otherwise require care for an extended period of time in an acute care hospital at a cost higher than in-home medical care services. The director shall have the authority under this section to contract with organizations qualified to provide in-home medical care services to such persons. These services may be provided to patients placed in facilities such as skilled nursing or intermediate care facilities, or to persons in shared or congregate living arrangements, if a home setting is not medically appropriate or available to the beneficiary. As used in this section, "in-home medical care service" includes utility bills directly attributable to continuous, 24-hour operation of life-sustaining medical equipment, to the extent that federal financial participation is available.

As used in this subdivision, in-home medical care services, include, but are not limited to:

(1) Level of care and cost of care evaluations.

(2) Expenses, directly attributable to home care activities, for materials.

(3) Physician fees for home visits.

(4) Expenses directly attributable to home care activities for shelter and modification to shelter.

(5) Expenses directly attributable to additional costs of special diets, including tube feeding.

(6) Medically related personal services.

(7) Home nursing education.

(8) Emergency maintenance repair.

(9) Home health agency personnel benefits which permit coverage of care during periods when regular personnel are on vacation or using sick leave.

(10) All services needed to maintain antiseptic conditions at stoma or shunt sites on the body.

(11) Emergency and nonemergency medical transportation.

(12) Medical supplies.

(13) Medical equipment, including, but not limited to, scales, gurneys, and equipment racks suitable for paralyzed patients.

(14) Utility use directly attributable to the requirements of home care activities which are in addition to normal utility use.

(15) Special drugs and medications.

(16) Home health agency supervision of visiting staff which is medically necessary, but not included in the home health agency rate.

(17) Therapy services.

(18) Household appliances and household utensil costs directly attributable to home care activities.

(19) Modification of medical equipment for home use.

(20) Training and orientation for use of life support systems, including, but not limited to support of respiratory functions.

Beneficiaries receiving in-home medical care services are entitled to the full range of services within the Medi-Cal scope of benefits as defined by this section, subject to medical necessity and applicable utilization control. Services provided pursuant to this subdivision, which are not otherwise included in the Medi-Cal schedule of benefits, shall be available only to the extent that federal financial participation for these services is available in accordance with a home and community-based services waiver.

(u) Home and community-based services approved by the United States Department of Health and Human Services shall be covered only to the extent that federal financial participation is available for such services under waivers granted in accordance with Section 1915 of the federal Social Security Act. The director shall seek waivers for any or all home and community-based services which he or she determines are approvable under Section 1915 of the federal Social Security Act. Coverage for such services shall be limited by the terms, conditions, and duration of the federal waivers.

The department shall submit a report, as provided in Section 28 of the 1982 Budget Act, 30 days prior to providing these services as Medi-Cal benefits. The report shall be submitted to the Joint Legislative Budget Committee and the fiscal committees and shall address the cost effectiveness of services provided pursuant to this subdivision.

(v) Comprehensive perinatal services, as provided through an agreement with a health care provider designated in Section 14134.5 and meeting the standards developed by the department pursuant

to Section 14134.5, subject to utilization controls.

The department shall seek any federal waivers necessary to implement the provisions of this subdivision. The provisions for which appropriate federal waivers cannot be obtained shall not be implemented. Provisions for which waivers are obtained or for which waivers are not required shall be implemented notwithstanding any inability to obtain federal waivers for the other provisions. No provision of this subdivision shall be implemented unless matching funds from Title XIX of the federal Social Security Act are available.

(w) Early and periodic screening diagnosis, and treatment for any individual under 21 years of age is covered, consistent with the requirements of Title XIX of the federal Social Security Act.

(x) When a claim for treatment provided to a beneficiary includes both services which are authorized and reimbursable under this chapter, and services which are not reimbursable under this chapter, that portion of the claim for the treatment and services authorized and reimbursable under this chapter shall be payable.

SEC. 9. (a) Section 2 of this bill incorporates amendments to Section 14132 of the Welfare and Institutions Code proposed by both this bill and AB 1172. It shall only become operative if (1) both bills are enacted and become effective January 1, 1986, (2) each bill amends Section 14132 of the Welfare and Institutions Code, and (3) both AB 1336 and SB 1299 are not enacted or as enacted do not amend that section, and (4) this bill is enacted after AB 1172, in which case Sections 1 and 3 to 8, inclusive, of this bill shall not become operative.

(b) Section 3 of this bill incorporates amendments to Section 14132 of the Welfare and Institutions Code proposed by both this bill and AB 1336. It shall only become operative if (1) both bills are enacted and become effective January 1, 1986, (2) each bill amends Section 14132 of the Welfare and Institutions Code, (3) both AB 1172 and SB 1299 are not enacted or as enacted do not amend that section, and (4) this bill is enacted after AB 1336 in which case Sections 1, 2, and 4 to 8, inclusive, of this bill shall not become operative.

(c) Section 4 of this bill incorporates amendments to Section 14132 of the Welfare and Institutions Code proposed by both this bill and SB 1299. It shall only become operative if (1) both bills are enacted and become effective January 1, 1986, (2) each bill amends Section 14132 of the Welfare and Institutions Code, and (3) both AB 1172 and AB 1336 are not enacted or as enacted do not amend that section, and (4) this bill is enacted after SB 1299, in which case Sections 1 to 3, inclusive, and 5 to 8, inclusive, of this bill shall not become operative.

(d) Section 5 of this bill incorporates amendments to Section 14132 of the Welfare and Institutions Code proposed by this bill, AB 1172, and AB 1336. It shall only become operative if (1) this bill, AB 1172, and AB 1336 are all enacted and become effective January 1, 1986, (2) each bill amends Section 14132 of the Welfare and Institutions Code, (3) SB 1299 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after both AB 1172 and

AB 1336 in which case Sections 1 to 4, inclusive, and 6 to 8, inclusive, of this bill shall not become operative.

(e) Section 6 of this bill incorporates amendments to Section 14132 of the Welfare and Institutions Code proposed by this bill, AB 1172, and SB 1299. It shall only become operative if (1) this bill, AB 1172, and SB 1299 are all enacted and become effective January 1, 1986, (2) each bill amends Section 14132 of the Welfare and Institutions Code, and (3) AB 1336 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after both AB 1172 and SB 1299, in which case Sections 1 to 5, inclusive, 7 and 8 of this bill shall not become operative.

(f) Section 7 of this bill incorporates amendments to Section 14132 of the Welfare and Institutions Code proposed by this bill and AB 1336 and SB 1299. It shall only become operative if (1) this bill, AB 1336, and SB 1299 are all enacted and become effective January 1, 1986, (2) each bill amends Section 14132 of the Welfare and Institutions Code, (3) AB 1172 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after both AB 1336 and SB 1299 in which case Sections 1 to 6, inclusive, and 8 of this bill shall not become operative.

(g) Section 8 of this bill incorporates amendments to Section 14132 of the Welfare and Institutions Code proposed by this bill, AB 1172, AB 1336 and SB 1299. It shall only become operative if (1) all four bills are enacted and become effective January 1, 1986, (2) all four bills amend Section 14132 of the Welfare and Institutions Code, (3) this bill is enacted after AB 1172, AB 1336, and SB 1299, in which case Sections 1 to 7, inclusive, of this bill shall not become operative.

CHAPTER 1021

An act to amend Sections 439, 443.10, 443.31, 443.32, 443.33, 443.35, and 443.37 of, and to repeal and add Section 443.21 of, the Health and Safety Code, relating to health care.

[Approved by Governor September 25, 1985 Filed with Secretary of State September 26, 1985]

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

SECTION 1. Section 439 of the Health and Safety Code is amended to read:

439. (a) Every health facility licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2 shall be charged a fee of not more than 0.035 percent of the health facility's gross operating cost for the provision of health care services for its last fiscal year ending prior to the effective date of this section. Thereafter the office shall set for, 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 beginning with the year 1977, of not more than 0.035 percent of the health facility's gross operating cost for provision of health care services for its last fiscal year which ended on or before June 30 of the preceding calendar year. Each year the office shall establish the fee to produce revenues equal to the appropriation to pay for the functions required to be performed pursuant to this part or Part 1.8 (commencing with Section 443) by the office, the area and local health planning agencies, and the Advisory Health Council.

Health facilities which pay fees shall not be required to pay, directly or indirectly, the share of the costs of those health facilities for which fees are waived.

(b) There is hereby established the California Health Data and Planning Fund within the Office of Statewide Health Planning and Development for the purpose of receiving and expending fee revenues collected pursuant to this chapter.

(c) Any amounts raised by the collection of the special fees provided for by subdivision (a) of this section which are not required to meet appropriations in the Budget Act for the current fiscal year shall remain in the California Health Data and Planning Fund and shall be available to the office and the council in succeeding years when appropriated by the Legislature, for expenditure under the provisions of this part and Part 1.8 (commencing with Section 443) and shall reduce the amount of the special fees which the office is authorized to establish and charge.

(d) No health facility liable for the payment of fees required by this section shall be issued a license or have an existing license renewed unless the fees are paid. New, previously unlicensed health facilities shall be charged a pro rata fee to be established by the office during the first year of operation.

The license of any health facility, against which the fees required by this section are charged, shall be revoked, after notice and hearing, if it is determined by the office that the fees required were not paid within the time prescribed by subdivision (a).

SEC. 1.5. Section 443.10 of the Health and Safety Code is amended to read:

443.10. The Legislature hereby finds and declares that:

(a) Significant changes have taken place in recent years in the health care marketplace and in the manner in which health facilities are reimbursed by government and private third party payers for the services they provide.

(b) These changes have permitted the state to reevaluate the need for, and manner in which data are collected from health facilities by the various state agencies and commissions.

(c) It is the intent of the Legislature that as a result of this reevaluation that the data collection function be consolidated in a single state agency. It is the further intent of the Legislature that the single state agency only collect that data from health facilities which are essential. The data should be collected, to the extent practical on consolidated, multipurpose report forms for use by all state agencies.

(d) It is the further intent of the Legislature to eliminate the

California Health Facilities Commission and the State Advisory Health Council, and to create a single advisory commission to assume consolidated data collection and planning functions.

(e) It is the Legislature's further intent that the review of the data that the state collects be an ongoing function. The office, with the advice of the advisory commission, shall annually review this data for need and shall revise, add, or delete items as necessary. The commission and the office shall consult with affected state agencies and the affected industry when adding or eliminating data items. However, the office shall neither add nor delete data items to the Hospital Discharge Abstract Data Record or the quarterly reports without prior authorizing legislation, unless specifically required by federal law or judicial decision.

(f) The Legislature recognizes that the authority for the California Health Facilities Commission is scheduled to expire January 1, 1986. It is the intent of the Legislature, by the enactment of this part, to continue the uniform system of accounting and reporting established by the commission and required for use by health facilities. It is also the intent of the Legislature to continue an appropriate, cost-disclosure program.

SEC. 1.5. Section 443.21 of the Health and Safety Code is repealed.

SEC. 2. Section 443.21 is added to the Health and Safety Code, to read:

443.21. As used in this part, the following terms mean:

(a) "Commission" means the California Health Policy and Data Advisory Commission.

(b) "Health facility" or "health facilities" means all health facilities required to be licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2.

(c) "Hospital" means all health facilities except skilled nursing and intermediate care facilities.

(d) "Office" means the Office of Statewide Health Planning and Development.

SEC. 3. Section 443.31 of the Health and Safety Code is amended to read:

443.31. Every organization which operates, conducts, or maintains a health facility and the officers thereof, shall make and file with the office, at such times as the office shall require, all of the following reports on forms specified by the office which shall be in accord where applicable with the systems of accounting and uniform reporting required by this part, except the reports required pursuant to subdivision (g) shall be limited to hospitals:

(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 fiscal period, and a statement of ancillary utilization and patient census.

(c) A statement detailing patient revenue by payer, including,

but not limited to, Medicare, Medi-Cal, and other payers, and revenue center except that hospitals authorized to report as a group pursuant to subdivision (d) of Section 443.34 are not required to report revenue by revenue center.

(d) A statement detailing changes in financial position and capital financing status, including, but not limited to, ongoing and new capital expenditures and depreciation.

(e) A statement reporting the information required in subdivisions (a) and (b) for each separately licensed health facility operated, conducted, or maintained by the reporting organization.

(f) The office shall consult with the County Hospital Committee of the California Hospital Association, the County Supervisors Association of California, and the California Association of Public Hospitals to improve the accuracy of indigent care revenue reporting and shall present legislative or regulatory recommendations for such improvements by March 30, 1985.

(g) A Hospital Discharge Abstract Data Record which includes 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 semiannually file the Hospital Discharge Abstract Data Record not later than six months after the end of each semiannual period commencing six months after January 1, 1986. 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.

SEC. 4. Section 443.31 of the Health and Safety Code is amended to read:

443.31. Every organization which operates, conducts, or maintains a health facility and the officers thereof, shall make and file with the office, at the times as the office shall require, all of the following reports on forms specified by the office which shall be in accord where applicable with the systems of accounting and uniform

reporting required by this part, except the reports required pursuant to subdivision (g) shall be limited to hospitals:

(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 fiscal period, and a statement of ancillary utilization and patient census.

(c) A statement detailing patient revenue by payer, including, but not limited to, Medicare, Medi-Cal, and other payers, and revenue center except that hospitals authorized to report as a group pursuant to subdivision (d) of Section 443.34 are not required to report revenue by revenue center.

(d) A statement detailing changes in financial position and capital financing status, including, but not limited to, ongoing and new capital expenditures and depreciation.

(e) A statement reporting the information required in subdivisions (a), (b), (c), and (d) for each separately licensed health facility operated, conducted, or maintained by the reporting organization, except those hospitals authorized to report as a group pursuant to subdivision (d) of Section 443.34.

(f) The office shall consult with the County Hospital Committee of the California Hospital Association, the County Supervisors Association of California, and the California Association of Public Hospitals to improve the accuracy of indigent care revenue reporting and shall present legislative or regulatory recommendations for such improvements by March 30, 1985.

(g) A Hospital Discharge Abstract Data Record which includes 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 semiannually file the Hospital Discharge Abstract Data Record not later than six months after the end of each semiannual period, commencing six months after January 1, 1986. 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.

SEC. 5. Section 443.32 of the Health and Safety Code is amended to read:

443.32. Continuing with the first calendar quarter of 1986, summary financial and utilization data previously reported to the Health Facilities Commission pursuant to Section 441.185 shall be reported to the office 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 Accounting and Reporting Manual for California Hospitals and shall include all of 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 revenue, including bad debts, charity care, and Medicare and Medi-Cal contractual allowances.

(k) Total capital expenditures.

(*l*) Total net fixed assets.

(m) Total number of inpatient days, outpatient visits, and discharges by payer source, including Medi-Cal, Medicare, and other sources.

(n) Total net patient revenues by payer source, including, but not limited to, Medicare, Medi-Cal, and other payers.

Hospitals reporting pursuant to subdivision (d) of Section 443.34 may provide the items in subdivisions (g), (h), (i), and (j) of this section on a group basis, as described in subdivision (d) of Section 443.34.

The office shall make available at cost, to all interested parties, a hard copy of any hospital report made pursuant to this section and in addition to hard copies, shall make available at cost, a computer tape of all reports made pursuant to this section within 105 days of the end of every calendar quarter.

SEC. 6. Section 443.32 of the Health and Safety Code is amended to read:

443.32. Commencing with the first calendar quarter of 1986, summary financial and utilization data previously reported to the Health Facilities Commission pursuant to Section 441.185 shall be reported to the office 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 Accounting and Reporting Manual for California Hospitals and shall include all of 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 revenue, including bad debts, charity care, and Medicare and Medi-Cal contractual allowances.

(k) Total capital expenditures.

(*l*) Total net fixed assets.

(m) Total number of inpatient days, outpatient visits, and discharges by payer source, including Medi-Cal, Medicare, and other sources.

(n) Total net patient revenues by payer source, including, but not limited to, Medicare, Medi-Cal, and other payers.

Hospitals reporting pursuant to subdivision (d) of Section 443.34 may provide the items in subdivisions (g), (h), (i), (j), and (n) of this section on a group basis, as described in subdivision (d) of Section 443.34.

The office shall make available at cost, to all interested parties, a hard copy of any hospital report made pursuant to this section and in addition to hard copies, shall make available at cost, a computer tape of all reports made pursuant to this section within 105 days of the end of every calendar quarter.

SEC. 7. Section 443.33 of the Health and Safety Code is amended to read:

443.33. (a) The reports required by subdivisions (a), (b), and (c) of Section 443.31 shall be filed with the office within four months after the close of the filing organization's fiscal year and shall be available from the office no later than three months after the date upon which the report was filed.

(b) The reports required by subdivision (d) of Section 443.31 shall be filed annually by each hospital or its designee not later than six months after the end of the calendar year, and shall be available from the office no later than six months after the date upon which the report was filed.

(c) The reports referred to in paragraph (2) of subdivision (a) of Section 443.30 shall be filed with the office on the dates required by applicable law and shall be available from the office no later than six

months after the date upon which the report was filed.

(d) The office shall make available at cost, to all interested parties, a hard copy of any health facility report referred to in subdivision (a), (b), or (c) or subdivision (d) or (g) of Section 443.31 of this section and in addition to hard copies, shall make available at cost, computer tapes of the health facility reports referred to in subdivision (a), (b), or (c), unless the office determines that an individual patient's rights of confidentiality would be violated. In addition, the office shall provide at no cost, one copy of each individual health facility report or a computer tape thereof to each area health planning agency.

SEC. 8. Section 443.35 of the Health and Safety Code is amended to read:

443.35. (a) The office, with the advice of the commission, shall maintain a file of all the reports filed under this part at its Sacramento office. Subject to any rules, the office, with the advice of the commission, may prescribe, these reports shall be produced and made available for inspection upon the demand of any person, with the exception of hospital discharge abstract data which shall be available for public inspection unless the office determines that an individual patient's rights of confidentiality would be violated.

(b) Copies certified by the office as being true and correct copies of reports properly filed with the office pursuant to this part, together with summaries, compilations, or supplementary reports prepared by the office, 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 of these state, county, or local governmental agencies, boards, and commissions 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 these publicly financed programs.

(c) The office, with the advice of the commission, shall compile and publish summaries of the data for the purpose of public disclosure. The commission shall approve the policies and procedures relative to the manner in which data is disclosed to the public. The office, with the advice of the commission, may initiate and conduct studies as it determines will advance the purposes of this part.

(d) In order to assure that accurate and timely data are available to the public in useful formats, the office shall establish a public liaison function. The public liaison shall provide technical assistance to the general public on the uses and applications of individual and aggregate health facility data and shall provide the director and the commission with an annual report on changes that can be made to improve the public's access to data.

(e) In addition to its public liaison function, the office shall continue the publication of aggregate industry and individual health facility cost and operational data published by the California Health Facilities Commission as described in subdivision (b) of Section 441.95 as that section existed on December 31, 1985. This publication shall be submitted to the Legislature not later than March 1 of each year commencing with calendar year 1986 and in addition shall be offered for sale as a public document.

SEC. 9. Section 443.37 of the Health and Safety Code is amended to read:

443.37. Any health facility affected by any determination made under this part by the office may petition the office for review of the decision. This petition shall be filed with the office within 15 business days, or within such greater time as the office, with the advice of 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 an employee of the office, a hearing officer employed by the Office of Administrative Hearings, or a committee of the commission chosen by the chairperson for this purpose. If held before an employee of the office or a committee of the commission, the hearing shall be held in accordance with such procedures as the office, with the advice of 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 Chapter 5 (commencing with Section 11500) of Division 3 of the Government Code. The employee, hearing officer, or committee shall prepare a recommended decision including findings of fact and conclusions of law and present it to the office for its adoption. The decision of the office shall be in writing and shall be final. The decision of the office shall be made within 60 calendar days after the conclusion of the hearing and shall be effective upon filing 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 office 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 employee of the office, the hearing officer employed by the Office of Administrative Hearings, the Office of Administrative Hearings, or the committee of the commission, may issue subpoenas and subpoenas duces tecum in a manner and subject to the conditions established by Section 11510 of the Government Code.

SEC. 10. (a) Section 4 of this bill incorporates amendments to Section 443.31 of the Health and Safety Code proposed by both this bill and AB 991. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1986, (2) each bill amends Section 443.31 of the Health and Safety Code, and (3) this

bill is enacted after AB 991, in which case Section 3 of this bill shall not become operative.

(b) Section 6 of this bill incorporates amendments to Section 443.32 of the Health and Safety Code proposed by both this bill and AB 991. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1986, (2) each bill amends Section 443.32 of the Health and Safety Code, and (3) this bill is enacted after AB 991, in which case Section 5 of this bill shall not become operative.

SEC. 11. Reimbursement to local agencies and school districts for costs mandated by the state pursuant to this act, shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code and, if the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), shall be made from the State Mandates Claims Fund.

CHAPTER 1022

An act to amend Sections 221, 4456, 4456.1, 5500, 9262, 9263, 11110, 11111, 11509, and 11520 of, to add Sections 11110.2, 11302.5, 11613.5, 11808.5, and 11903.5 to, and to repeal and add Sections 11111.5, 11218, 11509.1, and 11707 of, the Vehicle Code, relating to occupational regulation.

[Approved by Governor September 25, 1985 Filed with Secretary of State September 26, 1985]

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

SECTION 1. Section 221 of the Vehicle Code is amended to read:

221. (a) The term "automobile dismantler" does not include:

(1) The owner of any premises on which two or more unregistered and inoperable vehicles are held or stored, if the vehicles are used, or intended to be used, for restoration or as replacement parts or otherwise in conjunction with any business of a licensed dealer, manufacturer, or transporter, or in conjunction with the operation and maintenance of any fleet of motor vehicles used for the transportation of persons or property.

(2) The owner of any premises or property used in conjunction with any agricultural, farming, mining, ranching, or motor vehicle repair business.

(3) Any person engaged in the restoration of vehicles of the type described in Section 5004 or in the restoration of other vehicles having historic or classic significance.

(4) The owner of a steel mill, scrap metal processing facility, or similar establishment purchasing vehicles of a type subject to registration, not for the purpose of selling the vehicles, in whole or

in part, but exclusively for the purpose of reducing the vehicles to their component materials, if the facility obtains, on a form approved or provided by the department, a certification by the person from whom the vehicles are obtained that each of the vehicles has been cleared for dismantling pursuant to Section 5500 or 11520.

(5) Any person who acquires used parts or components for resale from vehicles which have been previously cleared for dismantling pursuant to Section 5500 or 11520.

Nothing in this paragraph permits a dismantler to acquire or sell used parts or components during the time the dismantler license is under suspension.

(b) Any vehicle acquired for the purpose specified in paragraph (4) of subdivision (a) from other than a licensed dismantler, or from other than an independent hauler who obtained the vehicle, or parts thereof from a licensed dismantler, shall be accompanied by either a receipt issued by the department evidencing proof of clearance for dismantling under Section 5500, or a copy of the ordinance or order issued by a local authority for the abatement of the vehicle pursuant to Section 22660. The steel mill, scrap metal processing facility, or similar establishment acquiring the vehicle shall attach the form evidencing clearance or abatement to the certification required pursuant to this section.

All forms specified in paragraph (4) of subdivision (a) and in this subdivision shall be available for inspection by a peace officer during business hours.

SEC. 2. Section 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) The dealer or lessor-retailer shall attach for display a copy of the report of sale on the vehicle before the vehicle is delivered to the purchaser.

(2) The dealer or lessor-retailer shall submit to the department an application accompanied by all fees and penalties due for registration or transfer of registration of the vehicle 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) If the department returns an application and the application was first received by the department within 20 days of the date of sale of the vehicle, the dealer or lessor-retailer shall submit a corrected application to the department within 40 days from the date of sale of the vehicle or within 20 days from the date the application is first returned by the department, whichever is later.

(4) If the department returns an application and the application was first received by the department more than 20 days from the date of sale of the vehicle, the dealer or lessor-retailer shall submit a corrected application to the department within 40 days from the

date of sale of the vehicle.

(5) An application first received by the department more than 40 days from the date of sale of the vehicle is subject to the penalties specified in subdivisions (a) and (b) of Section 4456.1.

(6) The dealer or lessor-retailer shall report the sale pursuant to Section 5901.

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

SEC. 3. Section 4456.1 of the Vehicle Code is amended to read:

4456.1. (a) A dealer or lessor-retailer who violates paragraph (1), (2), or (6) 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 (3), (4), or (5) of subdivision (a) of Section 4456 shall pay to the department an administrative service fee of twenty-five dollars ($25) for each violation.

(c) Each violation 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.

(d) Failure to pay 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. 4. Section 5500 of the Vehicle Code is amended to read:

5500. (a) 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, the registration card, and the license plates last issued to the vehicle before dismantling may begin.

(b) Any person who is convicted of violating subdivision (a) 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) or more than five hundred dollars ($500), or by both that fine and imprisonment; and, upon a second or any subsequent conviction, by imprisonment in the county jail for not less than 30 days or more than one year, or by a fine of not less than two hundred fifty dollars ($250) or more than one thousand dollars ($1,000), or by both that fine and imprisonment.

SEC. 5. Section 9262 of the Vehicle Code is amended to read:

9262. (a) The fee for a license issued to dealers and lessor-retailers is as follows:

(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, change in the corporate officer structure, 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, transporters, distributors, and distributor branches is as follows:

(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).

(4) If an alteration of an existing license is caused by a change in the corporate officer structure, a fee of seventy dollars ($70).

(c) The fee for a license issued to representatives is as follows:

(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).

(d) When the holder of a license for which a fee is provided in this section applies for special plates as provided in subdivision (b) of Section 11505 or subdivision (b) of Section 11714, the fee for the plates and the annual renewal of the plates is the prevailing vehicle registration fee as set forth in Section 9250 for the period for which the special plates are issued or renewed.

SEC. 6. Section 9263 of the Vehicle Code is amended to read:

9263. Any automobile dismantler who fails to comply with Section 11520, or any other person who fails to comply with Section 5500 or 11520, shall pay an investigation service fee of fifteen dollars ($15).

SEC. 7. Section 11110 of the Vehicle Code is amended to read:

11110. The department, after notice and hearing, may suspend or revoke any license issued under this chapter in any of the following cases:

(a) The department is satisfied that the licensee fails to meet the requirements to receive or hold a license under this chapter.

(b) The licensee fails to keep the records required by this chapter.

(c) The licensee permits fraud or engages in fraudulent practices either with reference to the applicant or the department, or induces or countenances fraud or fraudulent practices on the part of any applicant for a driver's license.

(d) The licensee fails to comply with any provisions of this chapter or any of the regulations or requirements of the department adopted pursuant thereto.

(e) The licensee represents himself or herself as an agent or employee of the department or uses advertising designed to create

the impression, or which would reasonably have the effect of leading persons to believe, that the licensee was in fact an employee or representative of the department, or the licensee makes an advertisement, in any manner or by any means, which is untrue or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading.

(f) The licensee, or any employee or agent of the licensee, solicits driver training or instruction in, or within 200 feet of, an office of the department.

(g) The licensee is convicted of violating Section 14606, 20001, 20002, 20003, 20004, 20006, 20008, 23103, 23104, 23152, or 23153 of this code or subdivision 3 of Section 192 of the Penal Code. A conviction, after a plea of nolo contendere, is a conviction within the meaning of this section.

(h) The licensee does any act or series of acts, or is guilty of conduct, which action or conduct manifests a disability or unfitness to perform properly the licensee's occupational duties. If disability or unfitness to perform properly the occupational duties of the licensee is the basis of suspension or revocation, the referee, hearing officer, or department shall make a specific finding as to the manner in which the action or conduct manifests disability or unfitness, which finding shall be incorporated in the order suspending or revoking the license.

(i) Contrary to provisions of this code or of regulations adopted by the department, the licensee teaches or permits a student to be taught the specific tests administered by the department through use of the department's forms or testing facilities.

(j) The licensee conducts driver training, or permits driver training by any employee, in an unsafe manner or contrary to safe driving practices.

(k) The licensed driving school owner or licensed driving school operator teaches or permits an employee to teach driving instruction without a valid driving instructor's license.

(*l*) The licensed driving school owner does not have in effect a bond as provided in Section 11102.

(m) The licensee permits the use of the license by any other person for the purpose of permitting that person to engage in the ownership or operation of a driving school or in the giving of driving instruction for compensation.

SEC. 8. Section 11110.2 is added to the Vehicle Code, to read:

11110.2. The license issued to a driving school owner shall be canceled upon suspension or cancellation of the corporate charter of the licensee by the state.

SEC. 9. Section 11111 of the Vehicle Code is amended to read:

11111. (a) Every licensee under this chapter is entitled to notice and hearing prior to cancellation, suspension, or revocation of the license by the department, except that the department shall immediately cancel the license without a hearing for failure of the licensee to meet and maintain the requirements of paragraph (2),

(4), or (5) of subdivision (a) of Section 11102, or Section 11103, or subdivision (e), (f), or (g) of Section 11104, or Section 11110.2.

(b) The notice and hearings provided for in this chapter shall be pursuant to and governed by Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(c) Any action of the department in suspending, canceling, or revoking, or failing to renew a license may be reviewed by any court of competent jurisdiction.

(d) The department may, pending a hearing, temporarily suspend the license or permit of any driving school owner, driving school operator, or driving instructor for a period not to exceed 30 days if the director finds that the action is required in the public interest. In that case, a hearing shall be held and a decision thereon issued within 30 days after notice of temporary suspension.

(e) The suspension, expiration, or cancellation of a license issued under this chapter does not prevent the filing of an accusation for the revocation or suspension of the suspended, expired, or canceled license as provided in Section 11110, and does not invalidate or otherwise preclude a decision by the department that the license should be suspended or revoked. That determination may be considered in granting or refusing to grant any subsequent license authorized by this chapter to the same licensee, or to any partner, officer, director, or stockholder of the same licensee.

SEC. 10. Section 11111.5 of the Vehicle Code is repealed.

SEC. 11. Section 11111.5 is added to the Vehicle Code, to read:

11111.5. (a) After the filing of an accusation under this chapter, the director may enter into a stipulated compromise settlement agreement with the consent of the licensee on terms and conditions mutually agreeable to the director, the respondent licensee, and the accuser without further hearing or appeal. The agreement may include, but is not limited to, a period of probation or monetary penalties, or both. The monetary penalty shall not exceed one thousand dollars ($1,000) for driving school owners or five hundred dollars ($500) for driving school operators or driving instructors for each violation, and it shall be based on the nature of the violation and the effect of the violation on the purposes of this chapter.

(b) A compromise settlement agreement may be entered before, during, or after the hearing, but is valid only if executed and filed pursuant to subdivision (d) before the proposed decision of the hearing officer, if any, is adopted or the case is decided.

(c) The department shall adopt, by regulation, a schedule of maximum and minimum amounts of monetary penalties, the payment of which may be included as a term or condition of a compromise settlement agreement entered under subdivision (a). Any monetary penalty included in a compromise settlement agreement shall be within the range of monetary penalties in that schedule.

(d) Any compromise settlement agreement entered under this section shall be signed by the director, the respondent licensee, and

the accuser, or by their authorized representatives. The director shall file, or cause to be filed, the agreement with the Office of Administrative Hearings, together with the department's notice of withdrawal of the accusation or statement of issues upon which the action was initiated.

(e) If the respondent licensee fails to perform all of the terms and conditions of the compromise settlement agreement, the agreement is void and the department may take any action authorized by law notwithstanding the agreement, including, but not limited to, refiling the accusation or imposing license sanctions.

SEC. 12. Section 11218 of the Vehicle Code is repealed.

SEC. 13. Section 11218 is added to the Vehicle Code, to read:

11218. (a) After the filing of an accusation under this chapter, the director may enter into a stipulated compromise settlement agreement with the consent of the licensee on terms and conditions mutually agreeable to the director, the respondent licensee, and the accuser without further hearing or appeal. The agreement may include, but is not limited to, a period of probation.

(b) A compromise settlement agreement may be entered before, during, or after the hearing, but is valid only if executed and filed pursuant to subdivision (d) before the proposed decision of the hearing officer, if any, is adopted or the case is decided.

(c) Any compromise settlement agreement entered under this section shall be signed by the director, the respondent licensee, and the accuser, or by their authorized representatives. The director shall file, or cause to be filed, the agreement with the Office of Administrative Hearings, together with the department's notice of withdrawal of the accusation or statement of issues upon which the action was initiated.

(d) If the respondent licensee fails to perform all of the terms and conditions of the compromise settlement agreement, the agreement is void and the department may take any action authorized by law notwithstanding the agreement, including, but not limited to, refiling the accusation or imposing license sanctions.

SEC. 14. Section 11302.5 is added to the Vehicle Code, to read:

11302.5. (a) After the filing of an accusation under this chapter, the director may enter into a stipulated compromise settlement agreement with the consent of the licensee on terms and conditions mutually agreeable to the director, the respondent licensee, and the accuser without further hearing or appeal. The agreement may include, but is not limited to, a period of probation or monetary penalties, or both. The monetary penalty shall not exceed five hundred dollars ($500) for each violation, and it shall be based on the nature of the violation and the effect of the violation on the purposes of this chapter.

(b) A compromise settlement agreement may be entered before, during, or after the hearing, but is valid only if executed and filed pursuant to subdivision (d) before the proposed decision of the hearing officer, if any, is adopted or the case is decided.

(c) The department shall adopt, by regulation, a schedule of maximum and minimum amounts of monetary penalties, the payment of which may be included as a term or condition of a compromise settlement agreement entered under subdivision (a). Any monetary penalty included in a compromise settlement agreement shall be within the range of monetary penalties in that schedule.

(d) Any compromise settlement agreement entered under this section shall be signed by the director, the respondent licensee, and the accuser, or by their authorized representatives. The director shall file, or cause to be filed, the agreement with the Office of Administrative Hearings, together with the department's notice of withdrawal of the accusation or statement of issues upon which the action was initiated.

(e) If the respondent licensee fails to perform all of the terms and conditions of the compromise settlement agreement, the agreement is void and the department may take any action authorized by law notwithstanding the agreement, including, but not limited to, refiling the accusation or imposing license sanctions.

SEC. 14.5. Section 11509 of the Vehicle Code is amended to read:

11509. (a) The department, after notice and hearing, may suspend or revoke the license issued to an automobile dismantler upon the determination that the person to whom the license was issued is not lawfully entitled thereto or has committed any of the following acts:

(1) Made or knowingly or negligently permitted any illegal use of the special plates issued to him or her.

(2) Used a false or fictitious name or knowingly made any false statement or concealed any material fact in any application or other document filed with the department.

(3) 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.

(4) Violated one or more terms and provisions of Division 3 (commencing with Section 4000) or any rules and regulations adopted pursuant thereto.

(5) Violated any of the terms or provisions of Division 4 (commencing with Section 10500) or any rules and regulations adopted pursuant thereto.

(6) Violated one or more terms and provisions of this chapter, except Section 11520, or any rules and regulations adopted pursuant thereto.

(7) Knowingly, repeatedly, or flagrantly violated any provision of Section 11520.

(8) Violated one or more terms and provisions of Part 5 (commencing with Section 10701) of Division 2 of the Revenue and Taxation Code or any rules and regulations adopted pursuant thereto.

(9) Purchased, concealed, had in his or her possession, or otherwise acquired or disposed of a vehicle, or a part thereof, knowing it to be stolen.

(10) Failed to meet and maintain the requirements for issuance of an automobile dismantler's license as provided in this code.

(11) Failed to pay, within 30 days after written demand from the department, any fees or penalties due on vehicles acquired for dismantling which are not the subject of dispute. If the dismantler disputes the validity of the fees or penalties, the 30-day period shall not commence until the department, after review, has determined the fee or penalty to be due.

(12) Submitted a check, draft, or money order to the department for any obligation or fees due the state and it is thereafter dishonored or refused payment upon presentation.

(13) Failed to meet the terms and conditions of a previous agreement effected under the provisions of Section 11509.1.

(b) Any of the causes specified in Section 11503 as a cause for refusal to issue a license to an automobile dismantler applicant, shall be cause, after notice and hearing, to suspend or revoke a license and special plates issued to an automobile dismantler.

(c) Except as provided in Section 11509.1, every hearing as provided for in this chapter shall be held pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 15. Section 11509.1 of the Vehicle Code is repealed.

SEC. 16. Section 11509.1 is added to the Vehicle Code, to read:

11509.1. (a) After the filing of an accusation under this chapter, the director may enter into a stipulated compromise settlement agreement with the consent of the licensee on terms and conditions mutually agreeable to the director, the respondent licensee, and the accuser without further hearing or appeal. The agreement may include, but is not limited to, a period of probation or monetary penalties, or both. The monetary penalty shall not exceed one thousand dollars ($1,000) for each violation, and it shall be based on the nature of the violation and the effect of the violation on the purposes of this chapter.

(b) A compromise settlement agreement may be entered before, during, or after the hearing, but is valid only if executed and filed pursuant to subdivision (d) before the proposed decision of the hearing officer, if any, is adopted or the case is decided.

(c) The department shall adopt, by regulation, a schedule of maximum and minimum amounts of monetary penalties, the payment of which may be included as a term or condition of a compromise settlement agreement entered under subdivision (a). Any monetary penalty included in a compromise settlement agreement shall be within the range of monetary penalties in that schedule.

(d) Any compromise settlement agreement entered under this section shall be signed by the director, the respondent licensee, and

the accuser, or by their authorized representatives. The director shall file, or cause to be filed, the agreement with the Office of Administrative Hearings, together with the department's notice of withdrawal of the accusation or statement of issues upon which the action was initiated.

(e) If the respondent licensee fails to perform all of the terms and conditions of the compromise settlement agreement, the agreement is void and the department may take any action authorized by law notwithstanding the agreement, including, but not limited to, refiling the accusation or imposing license sanctions.

SEC. 17. 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 paragraph 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.

SEC. 18. Section 11613.5 is added to the Vehicle Code, to read:

11613.5. (a) After the filing of an accusation under this chapter, the director may enter into a stipulated compromise settlement agreement with the consent of the licensee on terms and conditions mutually agreeable to the director, the respondent licensee, and the

accuser without further hearing or appeal. The agreement may include, but is not limited to, a period of probation or monetary penalties, or both. The monetary penalty shall not exceed one thousand dollars ($1,000) for each violation, and it shall be based on the nature of the violation and the effect of the violation on the purposes of this chapter.

(b) A compromise settlement agreement may be entered before, during, or after the hearing, but is valid only if executed and filed pursuant to subdivision (d) before the proposed decision of the hearing officer, if any, is adopted or the case is decided.

(c) The department shall adopt, by regulation, a schedule of maximum and minimum amounts of monetary penalties, the payment of which may be included as a term or condition of a compromise settlement agreement entered under subdivision (a). Any monetary penalty included in a compromise settlement agreement shall be within the range of monetary penalties in that schedule.

(d) Any compromise settlement agreement entered under this section shall be signed by the director, the respondent licensee, and the accuser, or by their authorized representatives. The director shall file, or cause to be filed, the agreement with the Office of Administrative Hearings, together with the department's notice of withdrawal of the accusation or statement of issues upon which the action was initiated.

(e) If the respondent licensee fails to perform all of the terms and conditions of the compromise settlement agreement, the agreement is void and the department may take any action authorized by law notwithstanding the agreement, including, but not limited to, refiling the accusation or imposing license sanctions.

SEC. 19. Section 11707 of the Vehicle Code is repealed.

SEC. 20. Section 11707 is added to the Vehicle Code, to read:

11707. (a) After the filing of an accusation under this article, the director may enter into a stipulated compromise settlement agreement with the consent of the licensee on terms and conditions mutually agreeable to the director, the respondent licensee, and the accuser without further hearing or appeal. The agreement may include, but is not limited to, a period of probation or monetary penalties, or both. The monetary penalty shall not exceed one thousand dollars ($1,000) for each violation, and it shall be based on the nature of the violation and the effect of the violation on the purposes of this article.

(b) A compromise settlement agreement may be entered before, during, or after the hearing, but is valid only if executed and filed pursuant to subdivision (d) before the proposed decision of the hearing officer, if any, is adopted or the case is decided.

(c) The department shall adopt, by regulation, a schedule of maximum and minimum amounts of monetary penalties, the payment of which may be included as a term or condition of a compromise settlement agreement entered under subdivision (a).

Any monetary penalty included in a compromise settlement agreement shall be within the range of monetary penalties in that schedule.

(d) Any compromise settlement agreement entered under this section shall be signed by the director, the respondent licensee, and the accuser, or by their authorized representatives. The director shall file, or cause to be filed, the agreement with the Office of Administrative Hearings, together with the department's notice of withdrawal of the accusation or statement of issues upon which the action was initiated.

(e) If the respondent licensee fails to perform all of the terms and conditions of the compromise settlement agreement, the agreement is void and the department may take any action authorized by law, notwithstanding the agreement, including, but not limited to, refiling the accusation or imposing license sanctions.

SEC. 21. Section 11808.5 is added to the Vehicle Code, to read:

11808.5. (a) After the filing of an accusation under this article, the director may enter into a stipulated compromise settlement agreement with the consent of the licensee on terms and conditions mutually agreeable to the director, the respondent licensee, and the accuser without further hearing or appeal. The agreement may include, but is not limited to, a period of probation or monetary penalties, or both. The monetary penalty shall not exceed five hundred dollars ($500) for each violation, and it shall be based on the nature of the violation and the effect of the violation on the purposes of this article.

(b) A compromise settlement agreement may be entered before, during, or after the hearing, but is valid only if executed and filed pursuant to subdivision (d) before the proposed decision of the hearing officer, if any, is adopted or the case is decided.

(c) The department shall adopt, by regulation, a schedule of maximum and minimum amounts of monetary penalties, the payment of which may be included as a term or condition of a compromise settlement agreement entered under subdivision (a). Any monetary penalty included in a compromise settlement agreement shall be within the range of monetary penalties in that schedule.

(d) Any compromise settlement agreement entered under this section shall be signed by the director, the respondent licensee, and the accuser, or by their authorized representatives. The director shall file, or cause to be filed, the agreement with the Office of Administrative Hearings, together with the department's notice of withdrawal of the accusation or statement of issues upon which the action was initiated.

(e) If the respondent licensee fails to perform all of the terms and conditions of the compromise settlement agreement, the agreement is void and the department may take any action authorized by law, notwithstanding the agreement, including, but not limited to, refiling the accusation or imposing license sanctions.

SEC. 22. Section 11903.5 is added to the Vehicle Code, to read:

11903.5. (a) After the filing of an accusation under this article, the director may enter into a stipulated compromise settlement agreement with the consent of the licensee on terms and conditions mutually agreeable to the director, the respondent licensee, and the accuser without further hearing or appeal. The agreement may include, but is not limited to, a period of probation or monetary penalties, or both. The monetary penalty shall not exceed five hundred dollars ($500) for each violation, and it shall be based on the nature of the violation and the effect of the violation on the purposes of this article.

(b) A compromise settlement agreement may be entered before, during, or after the hearing, but is valid only if executed and filed pursuant to subdivision (d) before the proposed decision of the hearing officer, if any, is adopted or the case is decided.

(c) The department shall adopt, by regulation, a schedule of maximum and minimum amounts of monetary penalties, the payment of which may be included as a term or condition of a compromise settlement agreement entered under subdivision (a). Any monetary penalty included in a compromise settlement agreement shall be within the range of monetary penalties in that schedule.

(d) Any compromise settlement agreement entered under this section shall be signed by the director, the respondent licensee, and the accuser, or by their authorized representatives. The director shall file, or cause to be filed, the agreement with the Office of Administrative Hearings, together with the department's notice of withdrawal of the accusation or statement of issues upon which the action was initiated.

(e) If the respondent licensee fails to perform all of the terms and conditions of the compromise settlement agreement, the agreement is void and the department may take any action authorized by law notwithstanding the agreement, including, but not limited to, refiling the accusation or imposing license sanctions.

SEC. 23. No reimbursement is required by this act pursuant to 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 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 Sections 7304 and 8604 of the Revenue and Taxation Code, relating to taxation of fuels.

[Approved by Governor September 25, 1985 Filed with Secretary of State September 26, 1985]

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

SECTION 1. Section 7304 of the Revenue and Taxation Code is amended to read:

7304. "Motor vehicle fuel" includes gasoline, natural gasoline, blends of gasoline and alcohol containing more than 15 percent gasoline, and any inflammable liquid, by whatever name the liquid may be known or sold, which is used or is usable for propelling motor vehicles operated by the explosion type of engine.

It does not include kerosene, liquefied petroleum gas, natural gas in liquid or gaseous form, ethanol, or methanol. It does not include inflammable liquids specifically manufactured for racing motor vehicles which do not contain gasoline or natural gasoline and which are distributed and used for racing motor vehicles at a racetrack.

SEC. 2. Section 8604 of the Revenue and Taxation Code is amended to read:

8604. "Fuel" includes any combustible gas or liquid, by whatever name the gas or liquid may be known or sold, of a kind used in an internal combustion engine for the generation of power to propel a motor vehicle on the highways, except fuel that is subject to the tax imposed by Part 2 (commencing with Section 7301).

It does not include any combustible gas or liquid specifically manufactured and used for racing motor vehicles at a racetrack.

CHAPTER 1024

An act to amend Sections 72190, 73101, 73110, 73112, 73113, 73113.5, and 73114 of the Government Code, relating to courts.

[Approved by Governor September 25, 1985 Filed with Secretary of State September 26, 1985]

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

SECTION 1. Section 72190 of the Government Code is amended to read:

72190. Within the jurisdiction of the court and under the direction of the judges, commissioners of municipal courts 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 of municipal courts shall possess the same qualifications the law requires of a judge and shall hold office during

the pleasure of the court appointing them and shall not engage in the private practice of law. They shall be ex officio deputy clerks.

Notwithstanding any other provision of law, a commissioner of a municipal court of any judicial district in Los Angeles County, San Diego County, San Bernardino County, or Monterey County who has been duly appointed and has thereafter been retired for service, or a commissioner of a superior court in this state who has been duly appointed and has thereafter been retired for service, may be assigned by the presiding judge of a municipal court to serve as a court commissioner of such court for such periods of time as he is needed for the prompt and efficient discharge of the business of that court. While so serving, he shall be paid the full compensation of a court commissioner, payable as follows: He shall continue to receive his retirement allowance, and in addition the county shall pay him the amount equal to the difference between such retirement allowance and such full compensation. Such employment shall not operate to reinstate him as a member of the county retirement system or to terminate or suspend his retirement rights or allowance, and no deductions shall be made from his compensation as contributions to the retirement system.

SEC. 2. Section 73101 of the Government Code is amended to read:

73101. The San Bernardino County Municipal Court District shall consist of the following divisions, embracing that territory which is within the following judicial districts in the County of San Bernardino on the date specified, and as such divisions are thereafter modified by the board of supervisors or operation of law.

(a) On November 8, 1967:

(1) East Division—That territory within the Redlands Judicial District. On March 14, 1979, that territory within the Highland and Yucaipa Judicial Districts.

(2) Central Division—That territory within the San Bernardino Judicial District. On October 1, 1980, that territory within the Colton and Mission Judicial Districts.

(3) Valley Division—That territory within the Fontana and Rialto Judicial Districts. On January 1, 1979, that territory within the Bloomington Judicial District.

(4) West Valley Division—That territory within the West Valley Municipal Court District. On January 12, 1981, that territory within the Cucamonga-Etiwanda Judicial District.

(5) Victorville Division—That territory within the Victor Judicial District.

(b) On August 5, 1973:

(1) Barstow Division—That territory within the Barstow and Yermo-Belleville Judicial Districts.

(c) On November 26, 1973:

(1) Chino Division—That territory within the Chino Judicial District.

(d) On July 1, 1979:

(1) Morongo Basin Division—That territory within the Twenty-nine Palms Judicial District.

SEC. 3. Section 73110 of the Government Code is amended to read:

73110. There shall be one marshal of the San Bernardino County Municipal Court District who shall be appointed by, and serve at the pleasure of, a majority of the council of supervising judges and who shall receive a salary at a flat rate of forty-nine thousand eight hundred dollars ($49,800) per annum effective on July 7, 1984. The marshal shall be the appointing power for those positions listed in Section 73113 as being appointed by the marshal.

SEC. 4. Section 73112 of the Government Code is amended to read:

73112. Mediators in small claims proceedings in San Bernardino County under Section 116.7 of the Code of Civil Procedure shall receive for their services such fees, not to exceed one hundred dollars ($100) per day, as may be established by the court upon authorization and approval of the board of supervisors.

SEC. 5. 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	W/I budget target 85/86	Salary range 7/6/85	Number	Policy item
Assistant municipal court administrator	1			468
Municipal court division manager II	2			459
Municipal court division manager I	6			455
Data-processing analyst II	1			460
Municipal court division supervisor II	2			451
Municipal court division supervisor I	5			442
Municipal court chief clerk	4			444
Courtroom clerk II	33			441
Clerk IV	8		(2)	434
Fiscal clerk II	6	(1)		431
Fiscal clerk III	2			436
Clerk III	70	(10)	(6)	430
Legal procedures clerk I	34		(3)	432
Legal procedures clerk II	2			438
Secretary I	1			435
Secretary II	2			438
Staff analyst II	1			454

Account technician I	1	436
Fiscal clerk I	1	424
Legal procedures Clerk III	1	444

Appointed by Marshal

Job classification	Number	Salary range 7/5/85
Marshal's captain	3	378
Marshal's lieutenant	5	376
Marshal's sergeant	9	366
Deputy marshal	58	331
Administrative clerk I	1	77
Marshal's clerk II	13	71
Marshal's clerk I	13	66
Marshal's technician	19	72
Marshal's radio dispatch clerk	5	68
Secretary II	1	78

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 ten dollars and ninety-one cents ($10.91) commencing March 31, 1985, 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. 6. Section 73113.5 of the Government Code is amended to read:

73113.5. Whenever reference is made to a numbered salary range in any section of this chapter, the salary schedule found in the salary ordinance of San Bernardino County in effect on July 6, 1985, shall apply.

Administration of the salary plan provided by this chapter, including the hiring date; increases within range; salary on promotion, transfer, or demotion; salary on position reclassification, obligations and benefits and all other relevant matters, shall be in accordance with the current personnel rules and ordinances of the County of San Bernardino.

Notwithstanding any other provisions of law, the salary and classifications of municipal court employees provided by Sections 73107, 73110, 73113, 73114, and this section may be increased or decreased within the range limits of the salary schedule incorporated by reference by this section in order to provide classification and compensation that is comparable to county employees of similar qualifications

and experience in the classified service of San Bernardino County as such comparability is determined by the board of supervisors. Any salary increases granted or reclassifications made pursuant to this paragraph shall be effective only until January 1, 1987.

SEC. 7. 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 438 of the salary schedule effective on July 6, 1985, and be otherwise subject to the salary plan provided by Section 73113.5.

SEC. 8. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act.

CHAPTER 1025

An act to amend Section 52616 of, and to add Sections 33117.5, 71050, and 84707 to, the Education Code, to amend Sections 10521, 10524, 15006, 15010, 15011, 15032, 15037, and 15043 of, and to add Section 9615 to, the Unemployment Insurance Code, and to add Article 3.2 (commencing with Section 11320) to Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code, relating to Aid to Families with Dependent Children, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 26, 1985 Filed with Secretary of State September 26, 1985]

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

SECTION 1. Section 33117.5 is added to the Education Code, to read:

33117.5. (a) Adult education programs and regional occupational programs operated by school districts and county offices of education that have contracted with the Superintendent of Public Instruction pursuant to subdivision (b) shall provide services to welfare recipients referred by county welfare departments in accordance with paragraph (6) of subdivision (b) of Section 11320.5 of the Welfare and Institutions Code. These services shall include an evaluation of the individual's educational and training needs for purposes of paragraph (6) of subdivision (b) of Section 11320.5 of the Welfare and Institutions Code and the preparation of a related education and training plan reflecting these needs. The plan shall

specify the educational and training services to be provided and the length of time services are to be provided, and shall assure access to those services.

(b) The Superintendent of Public Instruction shall identify school districts or county offices of education which can best accommodate welfare recipients for whom vocational education, adult education, and English as a second language is specified in contracts required by Sections 11320.4 and 11320.5 of the Welfare and Institutions Code. The superintendent shall enter into contracts with each such consenting district or county office, where necessary, so that the contracting district or county office shall provide open entry-open exit skills training and education for welfare recipients who need this training to enable counties to meet their goals for plans developed pursuant to Article 3.2 (commencing with Section 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code.

(c) Allocations to the Superintendent of Public Instruction of funds available under Section 202(b)(1) of the federal Job Training Partnership Act shall be used for purposes of this section to the extent the superintendent determines necessary.

The Superintendent of Public Instruction shall allocate these funds directly to those providers of educational and training services delivered in accordance with this section. The Superintendent of Public Instruction shall allocate to community college districts and the Chancellor's Office of the California Community Colleges such funds as are determined necessary pursuant to Section 71050. The Superintendent of Public Instruction may allocate these funds to service delivery areas which have agreements with private schools and organizations to provide educational and training services under Article 3.2 (commencing with Section 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code. These funds shall be allocated in accordance with the coordination criteria of the coordination and special services plan as provided in Section 10524 of the Unemployment Insurance Code, and according to the priority order of eligible persons for these funds as provided in Sections 15010 and 15011 of the Unemployment Insurance Code.

SEC. 1.5. Section 52616 of the Education Code is amended to read:

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

(a) For the 1983–84 fiscal year, each district's adult revenue limit per unit of average daily attendance for the prior fiscal year calculated pursuant to Provision 1 of Item 6100-156-001 of the Budget Act of 1982 shall be increased by seventy dollars ($70). For the 1984–85 fiscal year and each fiscal year thereafter, each district's adult revenue limit per unit of average daily attendance for the prior fiscal year shall be increased by an amount equal to 6 percent of the

prior year's statewide average adult revenue limit per unit of average daily attendance, provided that no such revenue limit per unit of average daily attendance shall be less than 1.06 times the prior fiscal year's statewide average adult revenue limit per unit of average daily attendance.

(b) For the purposes of the block entitlement, the district's average daily attendance shall be the lesser of paragraph (1) or (2):

(1) The 1982–83 adult average daily attendance authorized for funding purposes for the programs specified in Section 41976, as specified in Item 6100-156-001 of the Budget Act of 1982, multiplied by 1.025 in the 1983–84 fiscal year and each fiscal year thereafter.

(2) The actual adult average daily attendance for the programs specified in Section 41976.

(c) The adult block entitlement shall be computed by multiplying the adult revenue limit per unit of average daily attendance from subdivision (a) and the adult average daily attendance allowed in subdivision (b). The adult block entitlement shall be deposited in a separate fund of the district to be known as the "adult education fund." Moneys in an adult education fund shall be expended only for adult education purposes. Moneys received for programs other than adult education shall not be expended for adult education.

(d) If the adult average daily attendance of a school district in any fiscal year is less than the adult average daily attendance utilized to compute the funded district adult education block entitlement for that fiscal year, the district shall receive an apportionment only for the actual average daily attendance generated. Any surpluses accrued as a result of average daily attendance not generated in a district's block entitlement shall be reallocated after the annual apportionment by the Superintendent of Public Instruction to provide services to welfare recipients pursuant to Section 33117.5. Any remaining surplus shall be reallocated to meet unanticipated growth in adult education. The receipt of reallocated funds shall not be used for computational purposes for the district's block entitlement for subsequent fiscal years.

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

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

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

(3) The conditions imposed by paragraphs (1) and (2) may be

waived by the Superintendent of Public Instruction upon certification from the school district that the local demand for the program is less than the required level of service.

SEC. 2. Section 71050 is added to the Education Code, to read:

71050. The Chancellor's Office of the California Community Colleges shall survey local community college districts to determine the level and type of services needed and available for welfare recipients pursuant to Article 3.2 (commencing with Section 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code. The Chancellor's Office of the California Community Colleges shall develop a plan and standards for the level of participation by community college districts required to meet the goal of providing open entry/open exit education, skills training, assessment, and counseling to these recipients. The plan shall provide for local in-service training and technical assistance to community college districts in development of contracts and programs in cooperation with county welfare agencies, service delivery areas under the Job Training Partnership Act, and others necessary to carry out the intent of that article. The plan shall also provide for the identification of necessary funding levels and sources of funding, including employer-based training and funds available under Section 202(b)(1) of the Job Training Partnership Act, to meet the goals of Article 3.2 (commencing with Section 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code, and the development and implementation of monitoring and reporting tools for the continued participation of community college districts in the provision of services under contracts required by that article.

SEC. 2.5. Section 84707 is added to the Education Code, to read:

84707. The Controller shall, in addition to amounts accruing from all other sources, during each fiscal year commencing with the 1985–86 fiscal year, transfer from the General Fund to Section B of the State School Fund such amounts as are certified from time to time by the chancellor and approved by the Director of Finance for purposes of funding increases in units of average daily attendance pursuant to paragraph (4) of subdivision (b) of Section 84706 of the Education Code as a result of the participation of a community college district in services or programs provided for pursuant to Article 3.2 (commencing with Section 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code.

SEC. 3. Section 9615 is added to the Unemployment Insurance Code, to read:

9615. Eligible persons who are registrants pursuant to Article 3.2 (commencing with Section 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code shall receive priority for services provided by the Job Agent and Service Center programs provided for pursuant to this chapter and Executive Order 66-11, July 1966. The department shall use up to 50 percent of the funds available to it pursuant to Section 7(b) of the federal Wagner-Peyser Act (29 U.S.C., Sec. 49f) to provide for job services required pursuant

to subdivision (c) of Section 11320.3 of the Welfare and Institutions Code.

SEC. 4. Section 10521 of the Unemployment Insurance Code is amended 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.

(29) The Greater Avenues for Independence Act of 1985 as authorized by Article 3.2 (commencing with Section 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code.

SEC. 5. Section 10524 of the Unemployment Insurance Code is amended 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.

(d) Specific coordination criteria which shall ensure that each local service delivery area plan, for each county, or part of a county, served by the plan, shall provide job training and employment services, as defined in this division, in accordance with a county plan approved under Article 3.2 (commencing with Section 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code.

SEC. 6. Section 15006 of the Unemployment Insurance Code is amended to read:

15006. (a) 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.

(b) The service delivery area plan for a service delivery area which includes a county which has an approved or proposed plan for the provision of employment and training services for public assistance recipients under Article 3.2 (commencing with Section 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code shall contain a certification by each county that the service delivery area plan is consistent with the county plan in the provision of sufficient services under this division for registrants under that article. If the service delivery area plan does not contain the county certification required under this subdivision, the state council shall certify that the service delivery area plan is consistent with the county plan in the provision of sufficient services under this division for registrants under that article.

SEC. 7. Section 15010 of the Unemployment Insurance Code is amended to read:

15010. Persons eligible to receive services provided under this division with funds from the Consolidated Work Program Fund including federal funds received through Titles I and II of, but excluding Titles III and IV of, the federal Job Training Partnership Act shall be limited to the following:

(a) Persons who have entered into contracts with counties for services under this division pursuant to Article 3.2 (commencing with Section 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code.

(b) Members of families which are applicants for, are receiving, or which would be eligible to receive, in the absence of services provided under this division, benefits provided by the Aid to Families with Dependent Children program pursuant to Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code.

(c) Persons who are receiving or who, in the absence of services provided under this division, would be eligible to receive food stamps pursuant to Chapter 10 (commencing with Section 18900) of Part 6 of Division 9 of the Welfare and Institutions Code.

(d) Persons who are receiving or would, in the absence of services provided under this division, qualify in the county of application for benefits under that county's general assistance program pursuant to Part 5 (commencing with Section 17000) of Division 9 of the Welfare and Institutions Code.

(e) Other persons who are eligible for services under the federal Job Training Partnership Act.

SEC. 8. Section 15011 of the 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) The priority order of eligible persons shall be in accordance with the order of eligibility set forth in Section 15010. This subdivision shall be operative unless there is a determination by the United States Department of Labor that it is inconsistent with federal law.

SEC. 9. 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, local educational agencies for vocational education programs pursuant to the provisions of Chapter 7 (commencing with Section 15070), and county welfare departments for services to participants under Article 3.2 (commencing with Section 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code.

(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. 9.5. 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 of 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. Funds received by the state in accordance with Section 202(b) (1) of that act shall be allocated to the Superintendent of Public Instruction as necessary to meet the need determined by the superintendent pursuant to Section 33117.5 of the Education Code. 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. An agreement shall be entered into between the Employment Development Department and the State Department of Education and shall provide that Job Training Partnership Act funds provided for the purposes of Section 33117.5 of the Education Code shall be utilized for payment to Regional Occupational Centers and Programs.

(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. 10. 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. This shall include a description of how the plan meets the needs of participants served under county plans developed pursuant to Article 3.2 (commencing with Section 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code.

(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 child care needs of participants eligible for services under this division, including an assessment of the role of employers in reducing this barrier to participation.

(i) Assurance that economically disadvantaged women and minorities will be served with federal Job Training Partnership Act funds, with respect to Title I and Title II of the act, at a rate that approximates their rate of representation and need for job training among the economically disadvantaged within each service delivery area. If the goals of the plan are not designed to comply with this

subdivision, the private industry council shall submit its justification for noncompliance to the State Job Training Coordinating Council and the Governor.

SEC. 11. Article 3.2 (commencing with Section 11320) is added to Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code, to read:

Article 3.2. Greater Avenues for Independence Act of 1985

11320. The Legislature finds and declares that the state and counties recognize all of the following:

(a) Applicants for, and recipients of, aid under this chapter desire to work, and will do so if provided with the opportunity.

(b) The state and counties shall provide applicants for, and recipients of, aid under this chapter with the opportunity to obtain employment by offering a full range of employment training and supportive services, consistent with the needs of participants, that allow for informed choices in order to meet their employment goals.

(c) Able-bodied applicants for, and recipients of, aid under this chapter, are expected to work. The timeframes for fulfilling this expectation shall be set forth in an explicit contract between an applicant or recipient and the county.

(d) Applicants for, and recipients of, aid under this chapter who are required to register for employment and training programs pursuant to Section 11310 are "individuals in special need" of training as described in Section 2 of the federal Job Training Partnership Act (29 U.S.C. Sec. 1501, et seq.), "individuals who require special assistance" provided in Section 123 of that act, and "most in need" of employment and training opportunities as described in Section 141 of that act. The Legislature finds and declares that these individuals are in the labor force actively seeking employment.

(e) Because success of any program will depend on the state, it must exercise leadership to engender enthusiasm among counties, county welfare department directors, and county welfare department line staff, who are the principal contacts for many recipients enrolled in the program.

(f) A successful program should also be based upon all the following principles:

(1) Recipients should be able to make choices and to live up to the responsibilities involved in those choices.

(2) Participants should have an early opportunity to obtain a job.

(3) Expenditures should be targeted where they can do the most good.

(4) The state and the counties have a responsibility to provide a sufficient level of services to meet the needs of participants, as well as to undertake sufficient public information efforts to make recipients, potential participants, employers, or other public or private entities aware of the components, opportunities, and benefits

of this program.

(5) New programs should be good investments of public funds. Added costs to the system should be incurred only when they are likely to result in long-term personal and community payoff.

(g) Clients should not be placed in any unassigned pool while waiting for a scarce resource.

(h) Most types of employment and training program components for applicants for, and recipients of, aid under this chapter have been successfully tried in this state.

(i) Aid under this chapter is available to persons who meet eligibility requirements. The program provided for in this article should not hamper continuation of this state's existing system of fraud detection, one of the most successful in the nation.

11320.1. Every applicant for, or recipient of, aid under this chapter who is required to register for employment and training programs pursuant to Section 11310 shall be required to register under this article with the county welfare department. Any applicant for, or recipient of, aid under this chapter who is not required to participate under this article may volunteer to participate in the program.

Any person required to register under this article with the county welfare department who refuses to register shall be subject to the procedures provided for in subdivision (a) of Section 11320.5.

11320.2. (a) County welfare departments shall administer this chapter, in a manner consistent with the provisions of this chapter and regulations adopted by the department in order to implement this chapter.

(b) Each county welfare department, with the cooperation of community college districts, county offices of education, and local private industry councils established under Chapter 4 (commencing with Section 15030) of Division 8 of the Unemployment Insurance Code, shall design a package of services to be provided to participants receiving services under this article, that reflect available resources and local job market needs. A joint plan may be submitted by two or more consenting counties.

Each county plan shall include a participant and labor market needs assessment, to be revised annually, which shall specify all of the following:

(1) The full employment goal of the plan, which shall be the provision of unsubsidized employment for all county registrants subject to this article.

(2) An assessment of the county's current and projected unsubsidized employment needs.

(3) An inventory of services, including those specified in subdivision (c) of Section 11320, available to county residents.

(4) The amount and kind of services required to meet the full employment goal for all registrants.

(5) The amount and kind of services that will be used in the plan year.

(6) An assessment of what services are currently unavailable and needed, including child care services, to meet the full employment goal and a plan for developing the availability of these services within a reasonable period of time, including a proposed program budget.

(c) The county welfare department shall submit to the department a program budget proposal in conjunction with the county plan, as specified in this section. The budget proposal shall specify the costs associated with providing the range of services included in the plan in the most cost-effective manner. The budget proposal shall identify the amount of funds that the county expects to spend for each component and shall provide supporting detail regarding the caseloads anticipated in each component and the amount that will be spent for (1) county employees, by classification, (2) administrative support and overhead, and (3) contracted services and support. Prior to final approval of the county's plan, as specified in subdivision (f), the department shall notify each county of the amount of its allocation of funds to carry out the plan and the assumptions used to develop that allocation. If the allocation is less than the amount of funds that the county proposed in the program budget, the department shall notify the county that the proposed program budget exceeds the funds available. The department shall specify how the costs proposed by the county exceed the costs used to develop the county's allocation. The county may provide any additional documentation to justify the higher funding level. If, after reviewing the additional information, the department finds that the proposed program costs are not reasonable or cost-effective, the county shall submit the necessary revisions to its plan and program budget to keep program expenditures within the amount of its allocation.

In subsequent years, the county welfare department shall submit its program budget proposal for this article at the same time as the county submits its administrative cost control plan for the Aid to Families with Dependent Children, Medi-Cal, and Food Stamp programs. If services are not available in the county, the county plan may include provisions for the purchase of services from other counties.

The plan shall be approved by the board of supervisors of each county, after a public hearing is held in accordance with existing county public hearing procedures that provide adequate notice and an opportunity for affected groups and individuals to present their views and suggestions. In approving the plan, the board shall consider the views presented by affected groups during, and as part of the record of, the public hearing.

Prior to implementation, each plan must receive approval by the department. In determining whether a plan should be approved, the department shall consider the projected long-range cost-effectiveness of the plan, in addition to the appropriateness of the services proposed to be delivered under the plan, given the local labor market, maximum utilization of existing and generic services,

and administrative ease.

No plan shall be approved by the department that does not provide an adequate range of services as described in Section 11320.3. With respect to large counties, as defined by the department for cost control purposes, "an adequate range of services" means that the counties shall provide all of the services outlined in Section 11320.3.

If two or more counties submit a joint plan, and the joint plan serves a participant caseload equal to or greater than a large county, the plan shall provide for all of the services outlined in Section 11320.3. If the services listed in Section 11320.3 are not provided for in the county plan, the county shall submit a justification as to why the services are not necessary. No plan shall be approved which requires job search and work experience of participants to the exclusion of a range of services and which does not specify the range of services, both existing and proposed to be offered participants, in accordance with this section.

No funds appropriated for purposes of this article shall be used to fund education or training services in any county plan if these services could reasonably be provided by local educational agencies from Section A or Section B of the State School Fund which are not otherwise committed. No local educational agency shall be authorized to receive funds appropriated for purposes of this article unless it has demonstrated that it has fully committed all the funds from Section A or Section B of the State School Fund available to it, as certified by the district to the Chancellor of California Community Colleges, or the Superintendent of Public Instruction. The Chancellor of the California Community Colleges and the Superintendent of Public Instruction, as appropriate, shall certify this information to the Director of Finance.

(d) In order to measure the effectiveness of county plans under this article, performance standards for this article shall be consistent with those developed for service delivery areas pursuant to Division 8 (commencing with Section 15000) of the Unemployment Insurance Code. The Health and Welfare Agency shall insure that these standards include, but are not limited to all of the following goals:

(1) The training program participants for unsubsidized employment.

(2) Reducing welfare costs by increasing earnings of program participants in unsubsidized employment.

(3) Placement in unsubsidized employment resulting from all program components.

(e) A county plan may also provide that the program provided for in this article shall apply to refugees receiving Refugee Cash Assistance or to recipients of aid under Part 5 (commencing with Section 17000), except that no funds appropriated for purposes of this article shall be utilized for purposes of applying this article to these individuals. If a county elects to apply the program provided for in this article to refugees receiving Refugee Cash Assistance or to

recipients of aid under Part 5 (commencing with Section 17000), the county shall maintain separate accounting records of expenditures related to applicants for, and recipients of, aid under this chapter, and for the individuals to whom the program applies pursuant to this subdivision. Separate accounting records shall also be maintained for participants who are time-eligible refugees receiving federally funded Aid to Families with Dependent Children benefits. If a county elects to apply the program provided for in this article to recipients of aid under Part 5 (commencing with Section 17000), these individuals shall have the same rights, duties, and responsibilities that a participant has who is an applicant for, or a recipient of, aid under this chapter. Any participation by general assistance recipients shall not constitute any actual or implied responsibility for, or assumption of, costs of general assistance by the state.

(f) Each county shall submit its plan to the department within two years from the effective date of this article, as added during the 1985–86 Regular Session. The department shall aprove a county plan within a reasonable period of time after submisison of the county plan. Notwithstanding subdivision (f), a county may phase in the participation in its program for all qualified persons over a period of up to two years from the date upon which the program commences to operate in the county. A county may incorporate into its plan any existing employment or training program for applicants for, or recipients of, aid under this chapter which is operating in the county to the extent that the program is consistent with this article.

(g) This program shall be fully operational on a statewide basis within three years after the effective date of this article, as added during the 1985–86 Regular Session, by which time the department shall approve all county plans.

(h) Counties shall continually monitor their program expenditures throughout the fiscal year. If a county determines that its anticipated expenditures will exceed the amount of that year's allocation as a result of an unexpected event, including caseload increases, court cases, or significant justifiable increases in component costs, the county shall immediately notify the department and submit a reduction plan to the department. The department shall review and respond to a county's proposed reduction plan within 30 days of reciept of the plan. The department may provide additional funds for the existing appropriation to forestall the need for county program reductions. If the department does not respond within 30 days, the plan shall be deemed to be approved. If the department disapproves the reduction plan the county shall continue to provide services as specified in the approved plan. The department shall submit within 30 days of the disapproval of a reduction plan, a report to the Joint Legislative Budget Committee setting forth the reason for the department's disapproval.

A county's approved reduction plan shall remain in effect for no

longer than the duration of the fiscal year in which the plan is approved. At the beginning of the following fiscal year, the county shall provide services pursuant to its approved program plan.

A county's plan shall propose only the following methods of reducing costs and shall use only those methods that are necessary to bring anticipated expenditures within the amounts allocated to the county, and shall use these methods for only a specified period and only in the order in which they appear below:

(1) Temporary exemption of new applicants for aid under the Aid to Families with Dependent Children—Unemployed Parent program.

(2) Temporary exemption of all Aid to Families with Dependent Children Unemployed Parent recipients who have been continuously on aid for less than one year.

(3) Temporary assignment of volunteer registrants to a waiting list, during which time these registrants will receive no services.

(4) Temporary exemption of all new appplicants for aid under the Aid to Families with Dependent Children—Family Group program.

(5) Temporary exemption of all Aid to Families with Dependent Children—Family Group recipients who have been on aid for one year or more.

(6) Temporary exemption of all Aid to Families with Dependent Children—Family Group recipients who have been on aid continuously for less than one year.

(7) Temporary exemption of all Aid to Families with Dependent Children—Family Group recipients who have been continuously on aid for less than two years.

(8) Temporary exemption of all participants, based on the time on aid, with participants who have been on aid the longest being the last to receive exemptions.

Counties that can remain within their allocation shall not implement reductions.

(i) The department shall evaluate the program and shall collect data on program cost, caseload movement, and program outcomes, including data on all of the following:

(1) The numbers of voluntary and mandatory participants in each program component.

(2) The amount of time that each participant remains in each component and the types of services, including supportive services, each participant receives.

(3) The number of recipients in each component that move to each of the other components.

(4) The number of participants sanctioned as well as the amount and duration of the sanction, the reason for the sanction, and the amount of time the participant was in the program prior to the sanction.

(5) The number of participants who go off aid, and to the extent possible, the reason they have gone off aid.

(6) The number of applicants who reapplied for and received aid

after having gone off aid during the time they were participating in the program.

(7) The starting salary of employed participants.

(8) Participants job retention rates.

(9) The appropriateness of the categorization of participants.

(10) The appropriateness of assessments and employment plans.

(11) The appropriateness of preemployment preparation assignments, including a periodic review of the appropriateness of these assignments.

(12) The effectiveness of training components based upon the number of individuals placed in employment.

(13) The timeliness of preemployment prepration assignment reviews.

(14) The appropriateness of sanctions applied under this article.

The department may use standard statistical sampling methods to conduct the evaluation. The department shall maintain this data for the state and for each county. The department may contract with a qualified organization for the evaluation required by this section. The department shall submit a plan for implementing this evaluation to the Joint Legislative Budget Committee. To the extent possible, the data collection system for this evaluation shall be designed to collect data in the least expensive and least time-consuming manner possible.

Utilizing the data compiled pursuant to this subdivision, the department shall, commencing one year after the effective date of this article, as added during the 1985–86 Regular Session, annually report, by January 10, to the Legislature and the Governor on the effectiveness of the program provided for in this article. The Legislative Analyst shall submit a review of this report to the Legislature by April 15 of each year.

11320.3. (a) Each plan submitted pursuant to Section 11320.2 shall contain a methodology for the provision of job services, training and education, and supportive services to program participants. This methodology must specify how county welfare departments will cooperate with, and maximize the use of, education, child care, resource and referral agencies, job service, and other appropriate local service providers. To the extent existing programs are available to county residents, each plan submitted pursuant to Section 11320.2 shall specify the manner in which these programs shall be utilized to provide services specified in this section. The county may provide services directly to program participants or enter into interagency agreements or contracts with private or public agencies for the provision of these services.

(b) Each county shall specify in its plan its target groups and the choices that shall be made available to each target group, pursuant to Section 11320.4. The county shall make available all of its programs to each target group, but may give priorities for certain programs to groups for whom these programs are reasonably expected to be the most effective.

(c) As provided in the contract entered into pursuant to Section 11320.5, job services shall include, but not be limited to, all of the following:

(1) Job club, which shall consist of both of the following:

(A) Job search workshops. These job search workshops shall be group training sessions where participants learn various job finding skills, including training in basic job seeking skills, job development skills, job interviewing skills, understanding employer requirements and expectations, and how to enhance self-esteem, self-image, and confidence.

(B) Supervised job search, which shall include, but not be limited to, access to phone banks in a clean and well-lighted place, job orders, direct referrals to employers, or other organized methods of seeking work which are overseen, reviewed, and criticized by a trained employment professional. The amount and type of activity required during this supervised job search period shall be determined by the county and the participant, based on the participant's employment history and need for supportive services, and shall be consistent with regulations developed by the department.

(2) Unsupervised job search. The individual shall seek work in his or her own way, and make periodic progress reports no less frequently than every two weeks to the county welfare department or the agency contracting with that department.

(3) Job placement, which shall include, but not be limited to, referrals to jobs listed by employers with the State Job Service.

(4) Job development, which shall be active assistance in seeking employment provided to a participant by a trained employment professional on a one-to-one basis.

(5) Employment counseling, which shall be counseling aimed at helping a person reach an informed decision on an appropriate employment goal.

(d) As provided in the contract entered into pursuant to Section 11320.5, training and education services include, but are not limited to, all of the following:

(1) Job training, which shall include, but is not limited to, training in employer-specific job skills in a classroom or onsite setting, including training provided by local private industry council programs and community colleges.

(2) Preemployment preparation shall be work for a public or nonprofit agency that provides the participant with either of the following:

(A) Basic preemployment preparation, which shall provide work behavior skills and a reference for future unsubsidized employment.

(B) Advanced preemployment preparation, which shall provide on-the-job enhancement of existing participant skills in a position related to a participant's experience, training, or education acquired as a result of the services funded pursuant to a contract entered into pursuant to Section 11320.5.

A short-term preemployment preparation assignment shall be for

not longer than three months, and may be provided as a preparation for other education and training services as a part of the contract amendments pursuant to subdivision (d) and (e) of Section 11320.5. A long-term preemployment preparation assignment shall not exceed one year. The number of hours a person participates in a preemployment preparation program shall be determined by adding his or her aid grant under this chapter, less any child support paid to the county, and his or her food stamp allotment and dividing by the average hourly wage for all job orders placed with the Employment Development Department. The average hourly wage shall be updated annually every July 1. No preemployment preparation assignment shall exceed 32 hours per week.

(3) Adult basic education, which shall be preemployment basic education, including reading, writing, and arithmetic necessary for employment or job training, including high school proficiency.

(4) College and community college education, when that education provides sufficient employment skills training that can reasonably be expected to lead to employment.

(5) Vocational English-as-a-second-language which shall be intensive instruction in English for non-English speaking participants, coordinated with specific job training.

(6) Grant diversion.

(7) Supported work.

(8) Transitional employment.

For purposes of paragraph (6), "grant diversion" means public or private sector employment or on-the-job training at comparable wage rates, in which the recipient's cash grant, or a portion thereof, or the welfare grant savings from employment, is diverted to the employer as a wage subsidy.

For purposes of paragraphs (7) and (8), "supported work or transitional employment" means a form of grant diversion in which the recipient's cash grant, or a portion thereof, or the welfare grant savings from employment, is diverted to an intermediary service provider.

Grant diversion, supported work, and transitional employment projects shall be administered so that the recipient shall not receive less disposable income than if he or she had not participated in the project. "Disposable income" means the income available to the recipient by adding the aid payment acquired pursuant to this chapter and earnings from the grant diversion project and subtracting the allowable employment related expenses.

The grant, a portion of the grant, or the estimated savings due to the earnings from a grant diversion project may be diverted into a special fund created by the county welfare department for this purpose. An employer may be reimbursed from the special fund pursuant to a contract developed by the county welfare department or the service delivery area with the employer.

The county shall obtain agreements with employers that participants will be employed upon successful completion of the

grant diversion, supported work, or transitional employment period in any related job openings, and that employers will not discriminate against participants on the basis of race, sex, national origin, age, or disability. A participating employer or service provider shall obtain and maintain a surety bond in an amount equal to the total annual grant diverted to the employer or service provider. Except as provided in subdivision (b) of Section 11320.6, there shall be no interruption in receipt of income, whether wages from the employer or aid payments by the department, caused by an employer's conduct. No grant diversion, supported work, and transitional employment program shall be implemented under this article until a plan for such a program is approved by the department. No plan for grant diversion supported work or transitional employment programs shall be approved if the plan would jeopardize federal financial participation. Standards established by the department for purposes of these programs shall not prohibit a significant portion of recipients from participation.

A plan submitted under this subparagraph shall include provisions for immediate reissuance to the recipient of any grant or portion of a grant paid to an employer or intermediary, which has been lost due to fraud, malfeasance, or theft on the part of the employer or intermediary. This plan shall also include provisions for reissuance to the recipient of any grant or portion of a grant paid to an employer or intermediary, when the recipient is determined to have had good cause for declining to participate pursuant to Section 11320.7. In the event that funds are lost due to fraud, malfeasance, or theft by an employer, the county shall initiate an action to recover from the employer or intermediary any of those funds.

(e) As provided in the contract pursuant to Section 11320.5, supportive services shall include, but are not limited to, all of the following:

(1) Child care. Paid child care shall be available to every participant with a child under 12 years of age who needs it in order to participate in the program component to which he or she is assigned.

(2) Transportation costs shall be paid for every participant to and from his or her job or training assignment.

(3) Ancillary expenses, which shall include the cost of books, tools, clothing, fees, and other necessary costs of a work or training assignment.

(4) Personal counseling. A participant who has personal or family problems that would affect the outcome of the employment plan entered into pursuant to Section 11320.5 shall, to the extent available, receive necessary counseling or therapy to help him or her and his or her family adjust to his or her job or training assignment.

(f) Payments for supportive services, as described in subdivision (e), shall be advanced to the participant, wherever necessary, and when desired by the participant, so that the participant need not use his or her funds to pay for these services.

If the participant is working in unsubsidized employment after having participated in this program, child care shall be available for a transition period of not less than three months. If the participant is working in unsubsidized employment after having participated in this program, coverage under the Medi-Cal program shall also be provided for a transition period consistent with federal requirements.

The cost of support services, including reimbursement to licensed day care providers, shall be governed by regional market rates. Reimbursement to child care providers shall not exceed the fee charged to private clients for the same service. Participants shall be allowed to choose legal child care and the cost of that child care shall be reimbursed by counties if the cost is within the regional market rate. The regional market rate means care costing no more than 1.5 market standard deviations above the mean cost of care for that region. Reimbursement shall be made at a rate lower than that charged to private clients for the same service if the child care program agrees to charge a lower fee. Reimbursement shall be made on a per month, per week, per day, or per hour basis depending upon the basis used to charge private clients for the same service. For purposes of this section, regional market rates shall be determined in accordance with resource and referral programs provided for under Article 2 (commencing with Section 8210) of Chapter 2 of Part 6 of the Education Code, and the Alternative Payment Program provided for under Article 3 (commencing with Section 8220) of Chapter 2 of Part 6 of the Education Code. Participant plans shall include immediate referrals to local resource and referral agencies. The department shall use the State Department of Education sliding scale fee schedule for participants receiving child care. Day care by family members shall be encouraged, but the choice between licensed or exempt day care arrangements shall be made by the recipient.

(g) Each county welfare department shall be encouraged to contract with existing service providers for any or all child care services arrangements. If the county welfare department elects to contract with any child care provider which is also under contract with the State Department of Education, these contracts shall be consistent with, and shall not supersede, all of the following:

(1) Chapter 2 (commencing with Section 8200) of Part 6 of the Education Code.

(2) Applicable provisions of Title 5 and Title 22 of the California Administrative Code.

(3) Applicable State Department of Education contract provisions.

(h) In order to provide maximum choice to parents, and to ensure the availability of child care, each county shall do all of the following:

(1) Assist participants to locate child care during and after participation under this article.

(2) Allow and promote parent choice by providing flexibility in

child care arrangements and establishing payment arrangements, as necessary, to meet the cost of licensed or exempt child care settings.

(3) Assist in the development of new child care capacity, where needed.

(4) Provide for the continuity of child care during the participants postprogram transition period consistent with subdivision (f) of Section 11320.3.

(5) Provide services to meet the child care needs of all children in the participant's family up to the age of twelve.

(6) Provide child care to participants whose program demands flexible hours of care including evening, weekends, and split shifts.

(7) To the extent possible provide for transportation of children from school to care, if reasonable and necessary.

The county may contract with the public and private child care programs to provide any or all of the services specified in this subdivision.

(i) Resource and referral programs shall assist the county welfare departments to determine the child care needs of Greater Avenues for Independence participants, provide them with a listing of available child care services in the service area, and facilitate the efforts of county welfare departments, school districts, local child care providers and parent groups for the expansion of child care services.

(j) If the county welfare department or a contractor pays for child care services which are exempt from licensure, all of the following information about the care giver shall be on file with the county welfare department or the contractor and shall be made available to the participant:

(1) The name and address of the care provider.

(2) The address where care is to be provided.

(3) The hours care is to be provided and the charge for this care.

(4) The names, addresses and telephone number of two character references.

(5) A copy of a valid California driver's license or other identification to establish that the care giver is at least 18 years old.

(6) A statement from the caregiver as to his or her health education, experience or other qualification, criminal record, and names and ages of other persons in the home or providing care.

(k) The department, under the direction of the Health and Welfare Agency, the Chancellor's office of the California Community Colleges, and the State Department of Education shall each develop and implement regulations whereby any payment for services from funds appropriated for the purposes of this article and delivered pursuant to subdivision (d) by a county or an entity contracting with a county shall be made in accordance with a competitively selected fixed unit price performance-based contract. Under these contracts, full payment shall not be considered earned until either of the following has occurred:

(1) The participant has successfully completed the education

program.

(2) The participant has successfully completed the job training program and has been retained in unsubsidized employment for at least 180 days.

Up to 70 percent of the fixed unit price for job training may be paid upon placement. At least 30 percent of the fixed unit price for job training shall be withheld for the followup during the 180-day retention period. Progress payments shall be made from this portion upon evidence of job retention at 30, 90, and 180 days. A pro rata share of the 70 percent payment shall be paid to the training provider if the participant fails to complete the training.

(*l*) Whenever a plan entered into pursuant to Section 11320.5 provides for the use of education services provided for in subdivision (d), utilization of each education program component shall not exceed two academic years.

11320.35. A preemployment preparation position utilized pursuant to this article may not be created as the result of, or may not result in, any of the following:

(a) Displacement of current employees, including overtime currently worked by these employees.

(b) The filling of established unfilled positions, unless the positions are unfunded in a public agency budget.

(c) The filling of positions which would otherwise be promotional opportunities for current employees.

(d) The filling of a position, prior to compliance with applicable personnel procedures or provisions of collective bargaining agreements.

(e) The filling of a position created by termination, layoff, or reduction in workforce.

(f) The filling of a work assignment customarily performed by a worker in a job classification within a recognized collective bargaining unit in that specific worksite, or the filling of a work assignment in any bargaining unit in which funded positions are vacant or in which regular employees are on layoffs.

(g) A strike, lockout, or other bona fide labor dispute, or violation of any existing collective bargaining agreement between employees and employers.

11320.36. The sponsor of a preemployment preparation assignment shall assist and encourage qualified preemployment preparation participants to compete for job openings occurring within the sponsor's organization for which they qualify.

Workers assigned to public agencies shall be allowed to participate in classified service examinations equivalent to the positions they occupy, as well as all open and promotional examinations for which experience in the position or other relevant experience is qualifying under merit system rules. Time worked in the preemployment preparation positions shall apply toward seniority in the merit public agency positions.

11320.38. Any employment or training program position created

pursuant to this article, other than a preemployment preparation position may not be created as a result of, or may not result in, any of the following:

(a) Displacement of current employees, including overtime currently worked by these employees.

(b) The filling of positions which would otherwise be promotional opportunities for current employees.

(c) The filling of a position, prior to compliance with applicable personnel procedures or provisions of collective bargaining agreements.

(d) The filling of a position created by termination, layoff, or reduction in workforce, caused by the employer's intent to fill the position with a subsidized position pursuant to this article.

(e) A strike, lockout, or other bona fide labor dispute, or violation of any existing collective bargaining agreement between employees and employers.

11320.4. (a) Each county welfare department shall, in providing services to participants under this article, provide services to each participant which will best meet his or her needs. Services to be provided to each participant shall be specified in the contract entered into between the county welfare department and the participant pursuant to Section 11320.5. In developing each contract, the county shall take into consideration the specific target groups in the county, the availability of resources identified pursuant to Section 11320.3, and the choices which shall be made available to each group as required by this article.

(b) Priority in providing expensive services and services which must be provided for a lengthy period of time shall be given to persons who have been recipients of aid under this chapter for at least two years or who have little or no employment history. These individuals shall be given priority in receiving services such as supported work, as provided for in paragraph (8) of subdivision (d) of Section 11320.3, and lengthy classroom training.

(c) Program participants who have been recipients of aid under this chapter for less than two years and who have a history of employment shall be provided with less costly services and short-term services, unless a determination is made that these types of services would not be effective in assisting a program participant to achieve the ultimate goal of obtaining unsubsidized employment.

11320.5. (a) At the time an individual applies for aid under this chapter, or at the time a recipient's eligibility for aid is redetermined, the county shall determine whether the individual is required to register for the program provided under this article. At the time this determination is made, any individual who is deemed to be required to register under this article shall immediately register with the county welfare department. At the time an individual registers pursuant to this article, he or she shall receive a written preliminary determination that he or she is a member of a targeted group, for purposes of the federal Targeted Jobs Tax Credit and the California

Jobs Tax Credit. With respect to any person required to register under this article, registration pursuant to subdivision (b), shall be a condition of eligibility for aid under this chapter, except that any delay in registration due to circumstances beyond the control of the individual shall not adversely affect his or her eligibility for aid under this chapter. The recipient may appeal a determination that he or she is required to register under this article or sign a basic contract pursuant to subdivision (b), through the procedures set forth in Chapter 7 (commencing with Section 10950) of Part 2. Persons not required to register may volunteer to participate. An applicant for, or a recipient of, aid who is dissatisfied with the terms of the basic contract may seek redress through informal and formal conciliation.

Unless otherwise exempt, all of the following persons shall not be required to participate in program components, beyond registration, until the county welfare department determines that the situation not requiring participation no longer exists:

(1) A caretaker relative who is enrolled in school for at least 12 units of credit and has a child under age six.

(2) A person who is so seriously dependent upon alcohol or drugs that work or training is precluded.

(3) A person who is having an emotional or mental problem that precludes participation.

(4) A person who is involved in legal difficulties, such as court-maintained appearances, which preclude participation.

(5) A person who does not have the legal right to work in the United States.

(6) A person who has a severe family crisis.

(7) A person who is in good standing in a union which controls referrals and hiring in the occupation.

(8) A person who is temporarily laid off from a job with a definite call-back date.

(9) A person who is employed for 15 or more hours per week.

(10) A person, or a family member, has a medically verified illness.

(b) At the time an individual registers pursuant to this article, including persons who volunteer to participate, or with respect to any individual described in paragraphs (1) to (10) of subdivision (a) at the time the situation which permits nonparticipation no longer exists, every individual shall enter into a written basic contract with the county welfare department. The county shall offer the participant three days in which to consider and evaluate the proposed terms of this contract, or any subsequent amendments to this contract. The contract shall contain all of the following:

(1) The contract shall be written in clear and understandable language. The contract shall have a simple and easy-to-read format. The contract shall contain at least all of the following general information:

(A) A general description of the program provided for in this article.

(B) A description of the services, including supportive services

such as child care and transportation, available to program participants.

(C) A description of the rights, duties and responsibilities of program participants, including a list of the exemptions from required participation under this article and the consequences of a refusal to participate in program components.

(2) In the case of any participant who has not been employed within two years from the date of registration, except for a participant described in paragraph (4), the contract shall provide that the participant shall participate in job club for a period of three weeks, as defined in paragraph (1) of subdivision (c) of Section 11320.3. Participation pursuant to this paragraph may be delayed in accordance with paragraph (5) or (6).

(3) In the case of any participant who has been employed within two years of the date of registration, except for a participant described in paragraph (4), the participant shall have the option to participate in a three-week period of job club, as defined in paragraph (1) of subdivision (c) of Section 11320.3, or in a three-week period of supervised job search, as defined in subparagraph (B) of paragraph (1) of subdivision (c) of Section 11320.3. At the discretion of the employment and training counselor and with the approval of the first or second line supervisor, the job search period may be shortened when it is determined that all reasonable job search efforts have been exhausted. The participant shall choose one of the options upon signing the contract. Participation pursuant to this paragraph may be delayed in accordance with paragraphs (5) or (6).

(4) Notwithstanding paragraphs (2) and (3), in the case of any participant who has been a recipient of aid under this chapter more than twice within three years from the date of registration, the contract shall provide for immediate referral to assessment pursuant to subdivision (c). Participation pursuant to this paragraph may be delayed in accordance with paragraph (5) or (6).

(5) An individual who is enrolled in a self-initiated vocational training program of limited duration or an educational program which leads to unsubsidized employment may continue to participate in that program until completion, or in the case of an educational program, for a maximum of two academic years. Participation in the vocational or educational training program shall be reflected in the basic contract. The basic contract shall provide that whenever an individual to which this paragraph applies ceases to participate in, fails or refuses to attend regularly, or does not maintain satisfactory progress in, the educational or vocational training program, the individual shall participate in this program in accordance with paragraphs (2), (3), or (4), whichever is applicable.

(6) For those participants who lack basic literacy or mathematics skills, a high school diploma or its equivalent, or English language skills, the basic contract shall provide for either remedial education, instruction in order to obtain a general educational development

certificate, or instruction in English-as-a-second-language. These participants shall be referred to appropriate service providers, including the educational programs operated by school districts or county offices of education that have contracted with the Superintendent of Public Instruction to provide services to participants pursuant to Section 33117.5 of the Education Code. The basic contract shall provide that when an individual, to which this paragraph applies, fails, refuses, or ceases to participate in the instruction provided for in this paragraph, without good cause, as specified in Section 11320.7, the individual shall be subject to the sanction provisions of Section 11320.6.

(c) A participant described in paragraph (4) of subdivision (b), and any participant described in paragraphs (2) or (3) of subdivision (b) who has not obtained employment after his or her three weeks of participation in job club or supervised job search, shall work with the county welfare department to initiate the development of an employment plan. In developing the employment plan pursuant to this subdivision, the county and the participant shall develop an assessment of the skills and needs of the participant, which shall include at least all of the following:

(1) The participant's work history, including an inventory of his or her employment skills, knowledge, and abilities.

(2) The participant's educational history and present educational competency level.

(3) The participant's need for supportive services in order to obtain the greatest benefit from the employment and training services offered under this article.

(4) The employment goals of the participant, and an evaluation of the chances for the achievement of these goals given the current potential skills of the participant and the local labor market conditions.

(5) A goal to be attained upon completion of the program, including the period of time it will take to achieve this goal, and the resources available under this program for the attainment of that goal. This assessment shall be done by a person qualified by education or experience to provide counseling, guidance, assessment, or career planning. The county may contract with outside parties, including local educational agencies and service delivery areas to provide the assessment required by this subdivision.

(d) When the county and the participant have completed the assessment process required pursuant to subdivision (c), and they have agreed upon a goal to be attained under this program and the resources to be utilized in attaining that goal, the county and the participant shall amend the basic contract entered into pursuant to subdivision (b). The contract amendment shall specify the goal to be attained, the training or education services to be provided to the participant in order to attain the goal, which may consist of either one or more of the program components provided for in subdivisions (c) and (d) of Section 11320.3, and the criteria for successful

completion of these services and attainment of the goal. With respect to education and training programs, the criteria shall include regular attendance, satisfactory progress, and completion of the program. The contract amendment shall provide for supportive services as necessary for participation in this program. Once the participant has begun his or her training or education, he or she shall have 30 days in which to request a change or reassignment to another component. The county shall grant the participant's request for reassignment to another component that is consistent with the results of the assessment. This grace period shall be spelled out in the contract amendment and shall be available only once to each participant.

If services to be provided under the contract are not immediately available to the participant, he or she shall receive job search services until the education or training services designated in the contract are available.

Any individual who meets the established criteria for successful completion of the training or education services to which he or she is assigned, but who remains unemployed, shall be referred to job search services for a period of 90 days. These job search services may, depending upon the needs of the participant, include any of the services provided for in subdivision (c) of Section 11320.3. If the participant remains unemployed at the end of this 90-day job search period, he or she shall be evaluated and reassigned to an advanced long-term preemployment preparation assignment, as defined in paragraph (2) of subdivision (d) of Section 11320.3.

If at any time a participant does not meet the established criteria for successful completion of the training or education services to which he or she is assigned, the participant shall be reassigned to a basic long-term preemployment preparation assignment, as defined in paragraph (2) of subdivision (d) of Section 11320.3. The assignment to advanced or basic long-term preemployment preparation shall be reviewed by the county at least once every six months, for its continuing conformity to the contract, and likelihood of leading to unsubsidized employment. This review shall require an onsite visit to the participants worksite, and a discussion with the participant about his or her assignment and his or her job search progress. At the end of the one-year period specified in subdivision (d) of Section 11320.3, the county and the participant shall review the employment plan and, using the procedure described in subdivision (c), shall make any revisions necessary to obtain the goal of unsubsidized employment for the participant. These revisions shall become an amendment to the basic contract as provided in this subdivision.

Whenever a participant is assigned to a program component, the contract shall be amended to reflect the assignment. The county and the recipient shall be bound by the terms of any amendments made to the contract. The participant shall maintain responsible and adequate progress toward the goal of employment through the methods set forth in the plan, and the county shall provide the

services specified in the plan.

(e) Notwithstanding the procedures set forth in Chapter 7 (commencing with Section 10950) of Part 2, if the participant and the worker are unable to reach agreement on amending a contract, pursuant to subdivision (d), the matter shall be referred by the county for an independent assessment by an impartial third party with career planning experience. The results of this assessment, which shall be binding upon the county and the participant, shall be used to develop the appropriate employment plan for the participant.

No assessment under this subdivision shall be made by a party having any financial or other interest in the result of the assessment. The party making the assessment shall be selected by the department according to an unbiased procedure. Remuneration for this assessment shall be made by the department according to a fair fixed fee established by regulations of the department.

(f) A participant shall not be placed involuntarily in any other training or education component while waiting for assignment to the component agreed to in his or her contract.

Since a participant assigned to preemployment preparation, as defined in paragraph (2) of subdivision (d) of Section 11320.3, will be expected to continue to seek employment, at any time during the participant's preemployment preparation assignment he or she may request job services, as defined in subdivision (c) of Section 11320.3.

(g) Any participant who fails or refuses to participate in the program developed by the assessment pursuant to subdivision (e) shall receive sanctions in accordance with Section 11320.6.

Any county which fails to provide services according to its plan approved pursuant to this article shall receive sanctions in accordance with Section 10605. A recipient or a group of recipients may request the director to invoke Section 10605.

(h) Any participant who has entered into an amended contract plan pursuant to subdivision (d) and who, at any time, fails or refuses to participate in a component to which he or she has agreed to participate without good cause, shall be subject to sanctions in accordance with Section 11320.6.

11320.55. If an overpayment occurs pursuant to Section 11004, the number of hours calculated according to subdivision (d) of Section 11320.3 represented by the overpayment recoupment shall be deducted from the hours of participation required in future months. If a participant ceases to participate under this article before the adjustment in hours can be made, the county shall forgive the overpayment.

11320.6. (a) Whenever an individual has failed or refused to participate without good cause in a program component to which he or she is assigned pursuant to subdivision (b), (d), or (e) of Section 11320.5, and the participant continues to refuse to participate after a period of informal and formal conciliation between the county and the participant, sanctions shall be imposed in accordance with

subdivision (b) or (c), whichever is applicable. The department shall develop regulations specifying the maximum length of time which may be utilized in informal conciliation efforts. These efforts may utilize discussions with the supervisors of employees who make the decisions as to whether a participant has refused to participate without good cause in a program component to which he or she is assigned. Formal conciliation efforts shall follow informal conciliation efforts, if the latter have not resolved the dispute. Formal conciliation shall be conducted in accordance with Section 5302 of the Unemployment Insurance Code.

(b) Except for persons voluntarily participating in this program, whenever the participant engages in an initial failure or refusal to participate without good cause, in a program component to which he or she has been assigned pursuant to subdivision (b), (d), or (e) of Section 11320.5, and conciliation efforts pursuant to Section 5302 of the Unemployment Insurance Code have failed, the family shall be placed on money management services for three months, except that if the participant and the county welfare department reach an agreement on program participation during this sanction period, or if the participant agrees to participate and performs the activity he or she previously refused to perform, money management services shall be terminated as soon as possible. Financial sanctions shall be imposed in accordance with Section 11308 if any of the following events occur:

(1) The participant continues to refuse to participate after the three month money management services sanction period.

(2) The participant engages in a second instance of nonparticipation without good cause.

(3) The participant refuses to participate in violation of an agreement made during the imposition of money management services sanctions.

(c) The sanctions provided for in subdivision (b) shall not apply to an individual voluntarily participating in the program. If such an individual engages in conduct which would bring about the imposition of sanctions provided for in subdivision (b), except for his or her status as a voluntary program participant, the individual shall be precluded from participating in the program for a period of six months.

11320.65. Except as specified in this section, whenever a participant believes that any program requirement or assignment in this program is in violation of his or her contract or is inconsistent with this article, the participant may invoke the formal grievance procedure, which shall be conducted in accordance with Section 5302 of the Unemployment Insurance Code, request a fair hearing pursuant to Chapter 7 (commencing with Section 10950) of Part 2, or utilize a formal grievance procedure to be established by the county board of supervisors, and to be specified in the plan developed by each county pursuant to Section 11320.2. If the participant is not satisfied with the outcome of the grievance

procedure, he or she may appeal the decision in accordance with the procedures set forth in Chapter 7 (commencing with Section 10950) of Part 2. Participants shall be subject to sanctions pending the outcome of the formal grievance procedure or, any subsequent appeal, only if they fail to participate during the period the grievance procedure is being processed. A participant shall not, however, utilize the grievance procedure to appeal the results of an assessment made pursuant to subdivisions (c) or (e) of Section 11320.5.

11320.7. No sanctions shall be applied for a failure or refusal to participate with good cause. Good cause for failure or refusal to participate in a program component to which a participant is assigned pursuant to subdivisions (b), (d), or (e) of Section 11320.5 shall include all of the following:

(a) An assignment, job referral, or job does not meet appropriate work and training criteria due to any of the following:

(1) The employment, offer of employment, activity or other training for employment discriminates in terms of age, sex, race, religion, ethnic origin, or physical or mental handicap.

(2) The employment or offer of employment, exceeds the daily or weekly hours of work customary to the occupation.

(3) The employment, offer of employment, activity, or other training for employment requires travel to and from the place of employment, activity, or other training and one's home that exceeds a total of two hours in round trip time, exclusive of the time necessary to transport family members to a school or place providing care, or when walking is the only available means of transportation, the round trip is more than two miles, exclusive of the mileage necessary to accompany family members to a school or a place providing care.

(4) The employment, offer of employment, activity, or other training for employment involves conditions and specific responsibilities that impair the individual's physical or mental health or are not related to the individual's capability to perform the task on a regular basis.

(5) The employment, offer of employment, activity, or other training for employment involves conditions that are in violation of applicable health and safety standards.

(6) The employment, offer of employment or work activity, does not provide for worker's compensation insurance.

(7) An employment or training program position utilized pursuant to this article may not be created in violation of Section 11320.35.

(8) The employment, offer of employment, activity, or other training is not within the scope of the employment plan as contained in the contract provided for under Section 11320.5.

(9) Accepting the employment, offer of employment, or work activity would cause the individual to violate the terms of his or her union membership.

(10) Accepting the employment, offer of employment, or work activity would cause an interruption in an education or job training

program in progress, excluding community work experience assignments as defined in paragraph (2) of subdivision (d) of Section 11320.3, or would prevent the individual from returning to his or her regular job within a reasonable time, unless the job offer provides either of the following:

(A) Employment and sufficient income to lead to self-support and the job offer is within the scope of the employment plan.

(B) Temporary employment while the individual is waiting for reemployment in his or her regular job.

(11) The participant is not receiving the supportive services agreed to under the contract entered into pursuant to Section 11320.5.

(12) In addition to good cause as specified in this section, no sanction shall be applied to any participant who is absent or tardy for periods up to 10 percent of the weekly hours required for any component. However, this time shall not accumulate.

(13) The employment or offer of employment is at a wage level that results in a net loss of income, in accordance with subdivision (*l*).

(b) The individual is temporarily physically incapacitated or suffers temporary physical illness.

(c) The individual is required to appear in a court proceeding or is incarcerated.

(d) The individual is suffering a family crisis or changed individual family circumstance as evidenced, for example, by the death of a spouse, parent, or child or an illness of a spouse, parent, or child which requires the individual's immediate attention.

(e) Inclement weather or other act of nature precludes individual and other persons similarly situated from traveling to an activity.

(f) There is a breakdown in transportation arrangements with no ready access to alternate transportation.

(g) The individual needs any other necessary social service not specifically mentioned in his or her contract.

(h) An individual refuses to accept major medical services even if the refusal precludes participation in the program.

(i) Licensed or exempt child care is reasonably unavailable, or unavailable during the individual's hours of training or employment including commuting time, or arrangements for child care have broken down or have been interrupted. For purposes of this section, "reasonably" includes having at least two choices of child care arrangements. The choices of day care shall meet either licensing requirements or the criteria established pursuant to subdivision (*i*) of Section 11320.3. This exemption shall include the unavailability of suitable special needs child care for identified special needs children, including children with disabilities, chronic illnesses, or other special needs.

(j) An individual is engaged in employment or training that is consistent with the employability objectives of the program, and prior notification and approval from the worker has been received.

(k) At the discretion of the county, any other substantial and compelling reason other than those specified in this section.

(*l*) Net loss of income would occur pursuant to the conditions provided for in this subdivision, if an offer of employment which results in a net income of less than 100 percent of a person's grant and that was not agreed to or part of a participant's employment training contract is accepted. Net loss of income shall be deemed to occur when current income is greater than the postemployment income would be if the job offer were accepted. "Postemployment income" means any unearned income plus the gross earnings from the job offered, less all of the following: mandatory and legal deductions from the proposed salary, the cost to the participant of health insurance premiums offered by the prospective employer or if none is offered, the cost of purchasing health insurance coverage based on the competitive market rate, child care, transportation, and other mandatory work-related expenses, and the cash equivalent value of the difference between the assistance food stamps and the nonassistance food stamps for which the participant is eligible.

For purposes of computing the income disregards, the regional market rate for child care, transportation, and other mandatory work-related expenses shall be used. Regional market rates for child care shall be determined in accordance with the Alternative Payment Program as provided for under Article 3 (commencing with Section 8220) of Chapter 2 of Part 6 of the Education Code.

11320.75. A participant under this article shall have all due process rights granted pursuant to Chapter 7 (commencing with Section 10950) of Part 2.

11320.8. All contracts between counties and providers of services under this article, including employers providing preemployment preparation, shall include specific performance criteria. Any such contract or agreement shall also include the provision of job placement by the education or service provider. These contracts shall provide for termination of the contract at the discretion of the county if the provider either: (1) violates the contract between the county and the participant provided by Section 11320.4, or (2) fails to meet the performance criteria specified in the contract.

11320.9. (a) The department shall seek any federal funds available for implementation of this article, including, but not limited to, funds available under Title IV of the federal Social Security Act (42 U.S.C. Sec. 601 et seq.) for the Work Incentive Demonstration Program, the Employment Search Program, and the Community Work Experience Program.

(b) The department shall seek any waiver from the Secretary of the United States Department of Health and Human Services which is necessary to implement this article.

SEC. 12. The State Department of Education shall report to the State Department of Social Services each quarter the number of children receiving, and the amount of expenditure for, child care services provided to persons served in the State Department of

Education child care programs who are eligible for federal fund reimbursement for child care services under Article 3.2 (commencing with Section 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code.

The State Department of Education shall enter into an interagency agreement for the purpose of transferring to the State Department of Social Services an amount from funds appropriated to the department equal to the amount spent on child care services for Greater Avenues for Independence eligible persons. Through the same interagency agreement, the State Department of Social Services shall reimburse, in a timely manner, to the State Department of Education the amount transferred including both federal and general funds.

It is the intent of the Legislature in authorizing this transfer of funds, that the State Department of Social Services utilize this transfer to maximize the use of federal funds for child care services. The State Department of Social Services shall enter into an interagency agreement with the State Department of Education to fully reimburse the amount of the transfer, regardless of the level of federal matching funds. The State Department of Education shall be held harmless from incurring a deficiency resulting from this transfer

SEC. 13. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, emergency regulations adopted within 120 days of the enactment of this act in order to implement this act shall not be subject to the review and approval of the Office of Administrative Law. The regulations shall not remain in effect more than 120 days unless the adopting agency complies with all the provisions of Chapter 3.5 as required by subdivision (e) of Section 11346.1 of the Government Code.

SEC. 14. (a) In order to implement this act the following augmentations are provided to the State Department of Social Services for the purposes of implementing this act, including reimbursements to counties for costs mandated by the state pursuant to this act.

For the 1985–86 fiscal year, the sum of fifteen million eight hundred thousand dollars ($15,800,000) is hereby appropriated to the State Department of Social Services, as follows:

(1) The sum of seven million nine hundred thousand dollars ($7,900,000) from the General Fund.

(2) The sum of seven million nine hundred thousand dollars ($7,900,000) from the Federal Trust Fund.

(b) For the 1985–86 fiscal year, the sum of two hundred thousand dollars ($200,000) is hereby appropriated from the General Fund to the State Department of Education for the Resource and Referral Program to support the activities required by this act. When allocating these funds, the department shall consult with the State Department of Social Services to ensure that priority for funding is

given to resource and referral agencies in counties that are implementing, or planning to implement, the Greater Avenues of Independence Act.

(c) For fiscal year 1985–86, there shall be transferred from Item 6100-196-001 to the State Department of Social Services the sum required for the purpose of maximizing federal funds for child care services. The State Department of Social Services shall enter into an interagency agreement to fully reimburse the State Department of Education in a timely manner for the amount of any transfer. The State Department of Education shall be held harmless from any deficiency resulting from this transfer. The Department of Finance shall report any transfers to the Joint Legislative Budget Committee and the respective fiscal committees pursuant to Section 28 of the 1985 Budget Act.

SEC. 14.5. Except as specifically provided in this act, appropriations for purposes of this act for subsequent fiscal years shall be made annually through the Budget Act.

SEC. 15. Notwithstanding any other provision of law to the contrary, the sum of two million dollars ($2,000,000) is hereby reappropriated from Item 6100-156-001 of the Budget Act of 1985 to the Superintendent of Public Instruction for the purposes of Section 33117.5 of the Education Code.

SEC. 15.5. In order to encourage school districts to educate and train welfare recipients under the provisions of Section 33117.5 of the Education Code, as added by this act, the sum of one million dollars ($1,000,000) is appropriated from the General Fund as a one-time augmentation to appropriations contained in the Budget Act of 1985 as follows:

(a) Budget Item 6100-102-001: the sum of five hundred thousand dollars ($500,000).

(b) Budget Item 6100-156-001: the sum of five hundred thousand dollars ($500,000).

These additional funds shall be available only upon a determination by the Superintendent of Public Instruction that the amounts appropriated for budget Items 6100-102-001 and 6100-156-001 by the Budget Act of 1985 have been fully utilized.

SEC. 16. It is the intent of the Legislature that the annual Budget Act provide an amount equal to one-half of the amount provided from Job Training Partnership Act funds for the purposes of Section 33117.5 of the Education Code from each of Items 6100-102-001 and 6100-156-001.

SEC. 17. This act shall become operative only if SB 303 is enacted during the 1985 portion of the 1985–86 Regular Session.

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

The program provided for in this act will materially assist applicants for, and recipients of, aid to families with dependent

children to obtain employment thereby reducing dependency on public assistance and any delay in implementation would result in the further denial of this needed assistance to applicants and recipients. Furthermore, in order to ensure that this state has the opportunity to implement the program provided for in this act as part of the three-year Work Incentive Demonstration Program, which is currently being implemented in pilot counties and will be implemented in all WIN counties effective July 1, 1985, it is necessary that this act go into immediate effect.

CHAPTER 1026

An act to amend Section 8277.7 of, and to add Article 22 (commencing with Section 8460) to Chapter 2 of Part 6 of, the Education Code, relating to extended day care services, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 26, 1985 Filed with Secretary of State September 27, 1985]

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 any qualifications that 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 any procedures and policies in connection with the administration of this section that it deems necessary.

(3) Adopt any rules and regulations for the administration of this section requiring such procedure, forms, and information that 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 and shall charge rent of

one dollar ($1) per year. The board 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 any risks, including liability from the use thereof, in the amounts 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 that is economically or otherwise feasible.

(g) The board shall have prepared for its use, performance specifications for relocatable facilities and bids for their construction that 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 relocatable facilities that 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 the manner it deems to be in the best interests of the state.

Any revenue which is derived from a lease or other disposition of the 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. Article 22 (commencing with Section 8460) is added to Chapter 2 of Part 6 of the Education Code, to read:

Article 22. School Age Community Child Care Services

8460. For the purposes of this article, the State Department of Education shall develop and coordinate resources, provide technical assistance, and monitor program implementation, compliance, and

quality in the manner and form prescribed by the Superintendent of Public Instruction.

8461. The Superintendent of Public Instruction may adopt any rules, regulations, guidelines, and administrative directives necessary for the efficient implementation of this article.

8462. The Superintendent of Public Instruction shall enter into local contractual agreements for the delivery of extended day care services. The Superintendent of Public Instruction may also enter into agreements with any public or private entity or agency for the furnishing of property, facilities, personnel, supplies, equipment, and administrative services.

8463. The Superintendent of Public Instruction shall develop standards for the implementation of cost-effective quality extended day care programs, the cost of which shall be competitive with local private market rates. Indicators of quality may include, but not be limited to, any of the following:

(a) A physical environment that is safe and appropriate to the ages of the children and which meets applicable licensing standards as defined in Section 8480.

(b) Transportation or supervision to and from the school to the extended day care facility when the facility is not on the school site.

(c) A diverse school age child population from varying socioeconomic, racial, and ethnic backgrounds.

(d) Extensive use of community resources appropriate to school age children, including those community resources with a cultural, recreational, or educational emphasis.

(e) Program activities that are age appropriate and meet the developmental needs of each child, including, but not limited to, academic, creative arts, and support service activities, and activities for social, emotional, cognitive, linguistic, and physical development.

(f) Program activities and services that meet the cultural, linguistic, and other special needs of children and families served.

(g) Programs that support the academic growth of the children served, such as tutoring, homework assistance, and reinforcement of basic skills.

(h) Programs that encourage children to participate in organized and supervised youth groups.

(i) Family and community involvement.

(j) Parent education in specific strategies to help their children succeed in their academic programs.

(k) Efficient and effective local program administration.

(*l*) Staff that possesses the appropriate and required qualifications or experience, or both, as required in Section 8360. The appropriate staff qualifications shall reflect the diverse linguistic and cultural makeup of the children and families in the extended day care program. The use of intergenerational staff shall be encouraged.

(m) Provision for nutritional needs of children.

(n) Provision of, or referral to, support services that include, but are not limited to, identification of child and family needs.

8464. Notwithstanding Sections 8463 and 8467, in order to encourage the provision of cost-effective services, alternative payment programs shall be eligible to receive funding for extended day care services in accordance with Section 8221.

8465. (a) For the 1985–86 fiscal year, the Superintendent of Public Instruction shall make applications for contracts available to interested parties by November 1, 1985. Applicants for extended day care services contracts shall return completed applications to the State Department of Education by January 1, 1986. By February 15, 1986, the Superintendent of Public Instruction shall select and notify those applicants with which he or she will enter into contractual agreements.

The superintendent shall adopt regulations for applications for contracts for the 1986–87 fiscal year, which applications shall contain at least the following:

(1) A description of the agency.

(2) A general description of the community and schools in the area to be served.

(3) A needs assessment, including the number of children in need, classified by age, grade, ethnicity, and socioeconomic status.

(4) A plan for coordination with county welfare departments and resource and referral programs for the provision of services to participants in the program set forth in Article 3.2 (commencing with Section 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code and to current and former recipients of benefits under the Aid to Families with Dependent Children program.

(5) A detailed description of the proposed program, including appropriate age group activities, staffing, and facilities.

(6) A detailed budget that demonstrates that the cost of the program is competitive with the cost of local programs that are privately operated.

(7) Evidence of community planning and support.

(8) Any other information deemed necessary to evaluate program quality and cost effectiveness.

(b) The application for funding shall be competitive, in accordance with bidding procedures applicable to contracts under the State Department of Education.

(c) Any applicant with an existing child development contract that evidences noncompliance with fiscal or other program requirements shall be ineligible to apply for funding under this article.

(d) Transportation services for extended day care programs funded under this article shall be provided only by school districts and county offices of education, and shall be reimbursed at a rate established under Section 8470 in supplementation of any transportation allowance received under Article 10 (commencing with Section 41850) of Chapter 5 of Part 24.

8466. (a) Any agency submitting an application for funding to

provide extended day care services pursuant to this article shall notify the school districts serving the area in which the agency is located of its intent to apply for funding.

(b) The governing board of any school district which has an applicant agency within its boundaries shall develop an assessment addressing the need for extended day care services in the district which encompasses a variety of child care services, including, but not limited to, programs provided at school or other community sites, at family day care homes, and through alternative payment programs. The assessment shall be developed in cooperation with family day care networks, resource and referral centers, parents, child care providers, county welfare departments, and individuals representing community-based organizations and employers. By December 1, 1985, the school district which has an applicant agency within its boundaries shall provide a copy of the assessment to all applicant agencies and other interested parties requesting a copy.

(c) The Superintendent of Public Instruction shall develop a format to be used as a guide by school districts in developing the assessment required in subdivision (b).

(d) Each agency shall submit the assessment to the Superintendent of Public Instruction with its application for funding.

8467. (a) In determining which applicants shall receive funding, the Superintendent of Public Instruction shall give priority to applicants which meet the following criteria, which shall be weighted equally:

(1) The program shall provide care at the public elementary school site, except in those areas where there is no available space on school sites, as indicated in the assessment submitted with applications for funding pursuant to Section 8466.

(2) Except as provided in Section 8464, the program shall meet the requirements of Section 8463 in the most cost-effective manner. "Cost effective," as used in this paragraph, means an agency's demonstrated ability to utilize existing community resources in meeting the child's child care needs and providing the support services which he or she may require. Criteria for scoring cost effectiveness may include, but shall not be limited to, the proposed daily cost for children receiving extended day care authorized pursuant to this article, which cost shall be competitive with local private market rates.

(b) In allocating funds appropriated to carry out this article, the Superintendent of Public Instruction shall promote access to extended day care services throughout the state.

8468. To assure geographic equity in the distribution of funds appropriated for purposes of this chapter, the Superintendent of Public Instruction shall disburse funds for extended day care programs in accordance with all of the following procedures:

(a) To develop a formula to promote geographic equity, the superintendent shall use direct indicators of need for child care. These data shall be combined on a county-by-county basis. However,

counties with populations of fewer than 50,000 persons shall receive funding adequate to establish at least one program.

More specific indicators of need for subsidized child care shall be substituted for, or included in, the formula as they become available.

For the 1985–86 fiscal year, each of the following factors shall be given equal weight in the formula for allocation of extended day care funds:

(1) Each county's percentage of the number of children in the state who are in the Aid to Families with Dependent Children program.

(2) Each county's percentage of the number of women in the state's labor force.

(3) Each county's percentage of the number of children in the state who are ages 5 years to 14 years.

(b) The Superintendent of Public Instruction shall determine the total dollar amount for each county for publicly subsidized child care services. If the superintendent determines that funds allocated pursuant to this article for a county are not being fully utilized within that county, funds which have not been encumbered by contract may be reallocated for extended day care services pursuant to this article for any county, and allocations in subsequent years may be adjusted accordingly.

(c) The comparison of combined need with all available public and private resources shall guide the superintendent in determining the portion of funds for extended day care services pursuant to this article which will be available to applicant agencies from each county.

The funding for extended day care services shall promote equal access to child care services for eligible families across the state by bringing the relative dollar amounts in each county into closer congruence with the relative need for child care services in each county.

8468.5. (a) Priority for enrollment in programs supported under this article 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, social service, or public agency. Within this priority, families with the lowest gross monthly income shall be admitted first. When an agency is unable to enroll a child in need of protective services, the agency shall refer the family to local resource and referral services to locate services for the child.

(2) Second priority shall go to children in kindergarten and grades 1 through 3, and their school age siblings under the age of 13, whose families need extended day care services because parents are engaged in vocational training leading directly to a recognized trade, paraprofession or profession; are employed or seeking employment; or are incapacitated. Within this priority, families with the lowest gross monthly income shall be admitted first. Each program shall

serve individuals with exceptional needs, as defined in Section 56026. The percentage of children who are individuals with exceptional needs in each program shall at least equal the percentage of children in kindergarten and grades 1 to 8, inclusive, residing in the school district and receiving special education services, unless the demand for this level of service does not exist.

(3) Third priority shall go to children in grades 4 through 9, and their school age siblings under the age of 13, whose families need extended day care services because parents are engaged in vocational training leading directly to a recognized trade, paraprofession or profession; are employed or seeking employment; or are incapacitated. Within this priority, families with the lowest gross monthly income shall be admitted first. Each program shall serve individuals with exceptional needs, as defined in Section 56026. The percentage of children who are individuals with exceptional needs in each program shall at least equal the percentage of children in kindergarten and grades 1 to 8, inclusive, residing in the school district and receiving special education services, unless the demand for this level of service does not exist.

(4) To the extent possible, and within the parameters contained in this section, programs should serve a mix of children which reflects substantially the varying socioeconomic, racial, and ethnic backgrounds of the school district in which the agency is located, and a mix of subsidized and nonsubsidized children.

(b) In order for an extended day care program to receive funding, pursuant to this article, for a child served, the child's family shall meet at least one requirement in each of the following areas:

(1) A family shall be one of the following:

(A) A recipient of benefits under the Aid to Families with Dependent Children program, the Supplemental Security Income/State Supplementary Program, or a general assistance program.

(B) Income eligible, with first priority to be given to families with the lowest gross monthly income.

(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.

(2) A family shall need the child care service because the requirements of either subparagraph (A) or (B) apply.

(A) The child is identified by a legal, medical, or social service agency as meeting one of the following criteria:

(i) The child is a recipient of protective services.

(ii) The child is neglected, abused, or exploited, or at risk of neglect, abuse, or exploitation.

(iii) The child has a medical or psychiatric special need which cannot be met without the provision of extended day care.

(B) The child's parents meet one of the following criteria:

(i) The parents are engaged in vocational training leading directly to a recognized trade, paraprofession, or profession.

(ii) The parents are employed or seeking employment.

(iii) The parents are incapacitated, including a medical or psychiatric need which cannot be met without the provision of extended day care.

(c) The Superintendent of Public Instruction shall establish guidelines according to which the head teacher or a duly authorized representative of the extended day care program shall certify children as eligible for state reimbursement pursuant to this article.

8468.9. Notwithstanding Sections 8265 and 8266, the cost per child served by a contracting agency operating pursuant to this article shall be equivalent to the fee paid by the families of nonsubsidized children for the same service offered by the contracting agency.

8469. Any school district operating an elementary school shall be encouraged to subcontract with an operating agency for the purpose of providing extended day care services pursuant to this article.

8469.5. The governing board of any school district, when granting the use of any school facilities or grounds under its control for school age child care, shall do so in accordance with Section 40043

8470. The Superintendent of Public Instruction shall implement a plan which establishes reasonable and cost-effective standards and assigned reimbursement rates. The maximum reimbursement rate for a full year of extended day care service shall not exceed an average of two thousand one hundred dollars ($2,100) per child per year, as adjusted annually by the cost-of-living adjustment established by the Legislature for child care services.

8473. For each program approved for funding pursuant to this article, the Superintendent of Public Instruction shall subsidize no more than 50 percent of reimbursable program costs or 50 percent of program earnings, whichever is less. Nothing in this article shall be construed to permit the use of any state funding to provide child care services for families who do not meet the eligibility criteria set forth in subdivision (b) of Section 8468.5.

8474. An applicant agency may request a waiver of Section 8473. The Superintendent of Public Instruction may waive the conditions in Section 8473 only when compliance cannot be achieved due to a scarcity of families who do not meet the requirements for subsidization specified in Section 8468.5 and for the fee schedule established under subdivision (e) of Section 8263.

The cost of any program granted a waiver shall not exceed the average cost of those programs funded pursuant to this article but not granted a waiver.

8480. Programs funded pursuant to this article shall be deemed to be child day care facilities, as defined under Section 1596.750 of the Health and Safety Code, and subject to the California Child Day Care Act set forth in Chapter 3.4 (commencing with Section 1596.70) of Division 2 of the Health and Safety Code. A program may be exempted from any administrative regulation promulgated pursuant to the California Child Day Care Act by the Superintendent of Public Instruction for the sole purpose of qualification for funding, upon the

determination by the superintendent that good cause exists for the exemption, that the purposes of this article will be so furthered, and that the exemption will not result in a dangerous or life-threatening situation.

8481. In order to maximize program flexibility and cost effectiveness and to foster innovation and creativity, the Superintendent of Public Instruction may exempt from any administrative requirements established under this article any programs that are recreational in nature and contain no instructional components.

8485. (a) It is the intent of the Legislature that funds be appropriated for the state purchase of relocatable child care and development facilities for the purpose of providing extended day care services pursuant to this article, for lease to qualifying contracting agencies in geographic areas with no available child care and development facilities. A fund is hereby created in the State Treasury, to be known as the State Child Care Facilities Fund. All moneys in the State Child Care Facilities Fund, including any moneys deposited in that fund from any source whatsoever, are hereby continuously appropriated without regard to fiscal year for expenditure pursuant to the provisions of this article. The State Allocation Board may authorize the expenditure of any moneys in the State Child Care Facilities Fund for capital outlay projects pursuant to the provisions of this article.

(b) No relocatable child care and development facility owned by the state shall be placed on privately owned land except in those areas of the state where the Superintendent of Public Instruction determines there is no available space on publicly owned land and where there are no available child care and development facilities.

(c) The Superintendent of Public Instruction shall establish the qualifications to determine the eligibility of extended day care contracting agencies to lease relocatable facilities under this section.

(d) The Superintendent of Public Instruction shall adopt rules establishing priorities for the acquisition and leasing of facilities to contracting agencies that will most benefit children needing extended day care services. First priority shall be given to programs that are operated in school districts that have unhoused pupils, as determined under state standards established pursuant to Chapter 22 (commencing with Section 17700) of Part 10, and have developed a plan to provide extended day care services in a cost-effective manner. Each lessee shall be required to demonstrate that relocatable facilities are utilized solely for operation of extended day care services, and to comply with cost-effective minimum program standards established by the superintendent.

(e) The State Allocation Board, with the advice of the Superintendent of Public Instruction, may do all of the following:

(1) Establish any procedures and policies in connection with the administration of this section that it deems necessary.

(2) Adopt any rules and regulations for the administration of this

section requiring those procedures, forms, and information that it deems necessary.

(3) Have constructed, furnished, equipped, or otherwise require whatever work is necessary to place relocatable extended day care services facilities where needed.

(f) The board shall lease relocatable facilities to qualifying extended day care services contracting agencies and shall charge rent of one dollar ($1) per year. The board 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.

(g) 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 any risks, including liability from the use thereof, in the amounts the board deems necessary to protect the interests of the state.

(h) 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 that is economically or otherwise feasible.

(i) The board shall have prepared for its use, performance specifications for relocatable facilities and bids for their construction that 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 relocatable facilities that have been approved for lease to eligible extended day care services contracting agencies.

(j) 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 article 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 the manner it deems to be in the best interests of the state.

(k) If a lessee uses a particular relocatable facility for only a portion of the year, the board may enter into a second lease with a public or private party for the use of that facility for the portion of the year during which the facility would otherwise be unused, in the manner it deems to be in the best interests of the state. The lessee shall be subject to subdivisions (e) and (g).

8486. The State Allocation Board shall establish regulations for the allocation of funds for capital outlay for purposes of this chapter. The Superintendent of Public Instruction shall establish qualifications for determining the eligibility of extended day care agencies to apply for these funds.

8490. The State Department of Education shall submit a written

report to the Legislature by June 30, 1986, documenting the department's progress in implementing this article. The report shall include the number of contracts awarded, the number of contracts awarded to programs based on public school sites, the number of children by age or grade level served in programs funded under this chapter, and any problems with the implementation of this chapter.

8491. The advisory committee established pursuant to Section 8286 shall perform all of the following functions with regard to this chapter:

(a) Assist the State Department of Education in developing and reviewing guidelines for the administration of this chapter.

(b) Serve in an advisory capacity to the Superintendent of Public Instruction and the Governor for program policy decisions.

(c) Review the implementation of this chapter.

(d) Make written recommendations to the Legislature, the Governor, the State Department of Education, and the State Department of Social Services, by June 30, 1986, with regard to possible improvements to facilitate the implementation of this chapter.

8492. The Office of the Legislative Analyst shall contract for an independent study of the school age community child care program provided for under this article at the end of the second program year, and shall report the results of the study to the Legislature no later than December 1, 1987. The study shall include, but need not be limited to, program services, cost, staffing, administration, and support services; a review of the maximum reimbursement rate; the relationship between school districts, resource and referral programs, and county welfare departments; the timeliness of the creation of the support for child care; the timeliness of the provision of services; a comparative analysis of program services; and any other factors deemed relevant to the evaluation of the program's attainment of its goals and purposes.

SEC. 3. (a) The sum of eight million one hundred seventy-five thousand dollars ($8,175,000) is hereby appropriated from the General Fund to the Superintendent of Public Instruction for the 1985–86 fiscal year for funding extended day care programs under Article 22 (commencing with Section 8460) of Chapter 2 of Part 6 of the Education Code.

Notwithstanding any other provision of law, these funds shall be apportioned to agencies contracting to operate programs from January 1, 1986, to July 1, 1986, at the same rate as if sixteen million dollars ($16,000,000) had been appropriated to fund those programs for the entire 1985–86 fiscal year.

(b) The sum of one hundred seventy-five thousand dollars ($175,000) shall be allocated from the sum appropriated in subdivision (a) for the purposes of the contract described in Section 8492 of the Education Code.

(c) The Superintendent of Public Instruction shall allocate 1.5 per cent of the amount appropriated in subdivision (a) for

administrative costs incurred pursuant to that article. From funds allocated under this subdivision, the superintendent shall establish sufficient positions for the adequate administration of extended day care programs operated pursuant to that article. By June 30, 1986, the superintendent shall report to the Legislature regarding the number and classifications of staff assigned to these programs and the number of programs funded.

SEC. 4. The sum of fourteen million dollars ($14,000,000) is hereby appropriated or allocated for appropriation, as the case may be, from the Federal Trust Fund, pursuant to the federal escrow funds received by the state pursuant to Section 8(g) of the Outer Continental Shelf Lands Act, as amended (43 U.S.C. Sec. 1337(g)), to the State Child Care Facilities Fund without regard to fiscal year for allocation for capital outlay for extended day care services under Article 22 (commencing with Section 8460) of Chapter 2 of Part 6 of the Education Code, including all of the following purposes:

(a) The state purchase of relocatable facilities pursuant to Section 8485 of the Education Code, including, but not limited to, expenses incurred in the installation and establishment of the facilities.

(b) Capital outlay, including grants to extended day care programs and school districts which make their facilities available for extended day care, pursuant to Section 8486 of the Education Code, for the purpose of minor renovations and repairs necessary to meet any state and local licensing requirements.

(c) The State Allocation Board may use up to 2.5 percent of the funds allocated for the purposes of the program established by this act for necessary administrative costs. The State Allocation Board may establish, and fund under this subdivision, sufficient positions to provide necessary administrative services.

SEC. 5. The sum of twenty-two million five hundred thousand dollars ($22,500,000) is hereby appropriated or allocated for appropriation, as the case may be, from the Federal Trust Fund, pursuant to the federal escrow funds received by the state pursuant to Section 8(g) of the Outer Continental Shelf Lands Act, as amended (43 U.S.C.(g)), to the State Child Care Facilities Fund without regard to fiscal year, for allocation for capital outlay for extended day care facilities under Article 22 (commencing with Section 8460) of Chapter 2 of Part 6 of the Education Code, that have developed a program plan in conjunction with the program set forth under Article 3.2 (commencing with Section 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code, which funding includes all of the following purposes:

(a) The state purchase of relocatable facilities pursuant to Section 8485 of the Education Code, including, but not limited to, expenses incurred in the installation and establishment of the facilities.

(b) Capital outlay, including grants to extended day care programs and school districts which make their facilities available for extended day care, pursuant to Section 8486 of the Education Code, for the purpose of minor renovations and repairs necessary to meet

any state and local licensing requirements.

SEC. 6. Reimbursement to local agencies and school districts for costs mandated by the state pursuant to this act shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code and, if the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), shall be made from the State Mandates Claims Fund.

SEC. 7. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to protect the health and safety of children requiring extended day care, to facilitate the orderly implementation of extended day care programs, and to provide funding for the operation of those programs in the 1985–86 fiscal year, it is necessary that this act take effect immediately.

CHAPTER 1027

An act to add Part 3.5 (commencing with Section 13895) to Division 3 of Title 2 of the Government Code, relating to federal expenditures, and making an appropriation therefor.

[Approved by Governor September 26, 1985 Filed with Secretary of State September 27, 1985]

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

SECTION 1. The Legislature finds and declares the following:

(a) Federal government expenditures in California are a vital part of the state's economy and always have been. Federal programs in such areas as transportation, housing, space, and defense generate a major portion of the state's employment and are vital to those areas of our economy. California receives, for example, 45 percent of the National Aeronautics and Space Administration's procurement budget and 25 percent of the United States Department of Defense's budget for research, development, and procurement.

(b) It is the intention of the federal government to alter its spending patterns during the next several years. Increased emphasis will be placed on space and defense, and decreased spending emphasis will be given to housing, transportation, and direct grants through revenue sharing. The impacts on the entire state economy resulting from these shifts in expenditure patterns need to be evaluated to better prepare for the future.

(c) The impacts of these changing expenditure patterns will be felt particularly in this state's educational establishments, which must continue to provide a steady and adequate flow of skilled

scientific and technical personnel for the growth areas of the state's economy.

(d) To assist local governments, educational institutions, businesses, and individuals to understand and evaluate the impact of these shifting patterns on their budgeting, training needs, competitive possibilities, and job prospects, the state government needs to have for its own use, and to provide to others for their use, better and more complete data than is currently provided on the patterns, scope, extent, and impacts of federal expenditures.

SEC. 2. Part 3.5 (commencing with Section 13895) is added to Division 3 of Title 2 of the Government Code, to read:

PART 3.5. INFORMATION ON FEDERAL EXPENDITURES

13895. (a) It is the intent of the Legislature that the executive and legislative branches have access to timely and objective information on the impact of federal expenditures on the state's economy and employment.

(b) It is further the intent that the State Commission on Finance and the Employment Development Department be jointly responsible for collecting information and analyzing the impact of changing federal expenditures on California's economy, employment, and tax revenues, as provided pursuant to this part and that this information be utilized to the maximum extent to direct state and local job training and economic development resources to areas of the state experiencing expansions or reductions in federal expenditures.

(c) It is further the intent of the Legislature that the efforts of the commission and the department encourage public-private sector collaboration and input to the maximum extent possible.

13895.1. For the purposes of this part, "federal expenditures" means federal contract awards, including defense and space procurement, research and development, and construction contract awards, and expenditures affecting military bases and personnel.

13895.2. The commission shall develop and maintain an economic model capable of estimating the impact of federal expenditures on the state's economy and employment.

13895.3. Within 180 days of the effective date of this part, and on a semiannual basis thereafter, the commission shall report to the Legislature and Governor on the impact of federal expenditures on the state's economy and employment. The commission's report shall address both of the following:

(a) Projections of federal expenditures coming into the state and changes in these expenditures.

(b) The impact of these expenditures on the state's economic growth, employment, tax revenues, and other variables determined to be significant by the commission, for the next year compared with the previous three years.

The report also shall identify significant federal expenditures or

potential expenditures coming into the state affecting military bases, installations, and active duty and retired military personnel located within the state as well as the impact of changes in these expenditures.

13895.4. The Executive Director of the State Commission on Finance and the Director of Employment Development shall jointly establish a working group on federal expenditures. The purposes of the working group shall be to advise the commission and the Director of Employment Development on their responsibilities pursuant to this part.

The working group shall be composed of not more than 15 members, of which two shall be the Director of Commerce and Director of Finance. The working group shall be broadly representative of the state, and shall include representatives of the following groups:

(a) Local elected officials.

(b) Nonelected local officials.

(c) Businesses.

(d) Public interest groups.

(e) Labor organizations.

Of the appointments to the working group, at least five shall be from among a list of names submitted by the Chairman and the Vice Chairman of the Assembly Committee on Economic Development and New Technologies.

13895.5. The Director of Employment Development shall conduct a study to determine the feasibility of establishing a statewide network to monitor and disseminate information on significant federal contract actions affecting employment and job training needs in this state.

By January 1, 1987, the Director of Employment Development shall report to the Legislature, the Governor, and the working group established pursuant to Section 13895.4 regarding the study conducted. The report shall at a minimum contain all of the following:

(a) The location and duration of each prime contract award over one million dollars ($1,000,000) in this state and the number and categories of jobs associated with those contracts.

(b) A listing of skills historically subject to significant fluctuation with increasing and decreasing contract expenditures.

(c) The number of prime contracts awarded to small and minority-owned businesses.

(d) A listing of contracts that will be significantly expanded or reduced within the next 12-month period and the numbers and categories of jobs associated with those contracts.

(e) A description of efforts to be taken by the director, the State Job Training Coordinating Council, private industry councils, community colleges, and other agencies to provide job training, vocational education, and economic development services to areas experiencing contract reductions or expansions, as well as an

assessment of the effectiveness of services provided during the previous year.

(f) An assessment of the impact of federal contract expenditures on the availability of technical and engineering skills throughout the state.

(g) Methods for improving information from federal agencies on significant program activities and expenditures. The information shall include, but not be limited to, the location and duration of prime contracts over one million dollars ($1,000,000) awarded in this state, the number and categories of jobs associated with those contracts, and the number of prime contracts and subcontracts awarded to small and minority-owned businesses.

The report prepared pursuant to this section shall identify significant federal expenditures, or potential expenditures, coming into the state affecting military bases, installations, and active duty and retired military personnel located within the state, particularly those affecting the housing and medical needs of those bases and personnel.

13895.6. Within 90 days of the completion of the report required by Section 13895.5, the working group on federal expenditures shall review the report and make recommendations to the Legislature and the Governor
regarding future action.

13895.7. In order to carry out the duties under this part, the Director of Employment Development may do all of the following:

(a) Request and exchange information with federal, state, and local government agencies. The director may prescribe methods to protect the confidentiality of classified or proprietary information the director may use in compiling data. However, the director shall not receive any tax information which is confidential pursuant to state or federal law, unless the director is otherwise authorized to collect the information.

(b) Conduct seminars and other public meetings at such times and places as the director deems proper.

(c) Employ such staff as may be necessary to carry out his or her duties pursuant to this part. The director may enter into interagency agreements to obtain the services of state employees, and reimburse the employees' agencies for the time the state employees are engaged in duties pursuant to this part.

(d) Contract with other state agencies or individuals, public or private, as necessary, to provide or prepare services, facilities, studies, and reports that will assist the director in carrying out his or her duties and responsibilities pursuant to this part.

(e) Examine any books, documents, reports, or data, including computer programs and computer files held by any state agency, as defined by Section 11000. These agencies shall cooperate with the director and his or her agents in any such examination.

(f) Accept contributions, grants, and bequests and set reasonable fees for publications, studies, or reports. The director may also accept

federal funds as may be available to develop specialized information systems and data bases on federal expenditures in this state.

SEC. 3. The sum of one hundred fifty thousand dollars ($150,000) is hereby appropriated from the General Fund for the purposes of this act during the 1985–86 fiscal year, as follows:

(a) To the Employment Development Department	$75,000
(b) To the Commission on State Finance.....	$75,000

CHAPTER 1028

An act to amend Section 6385 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 26, 1985 Filed with Secretary of State September 27, 1985]

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

SECTION 1. Section 6385 of the Revenue and Taxation Code is amended to read:

6385. (a) There are exempted from the computation of the amount of the sales tax the gross receipts from the sale of tangible personal property, other than fuel and petroleum products, to a common carrier, shipped by the seller via the purchasing carrier's facilities under a bill of lading whether the freight is paid in advance, or the shipment is made freight charges collect, to a point outside this state and the property is actually transported to the out-of-state destination for use by the carrier in the conduct of its business as a common carrier.

(b) There are exempted from the computation of the amount of the sales tax the gross receipts from the sale of tangible personal property, other than aircraft fuel and petroleum products, purchased by a foreign air carrier and transported by the foreign air carrier's facilities to a foreign destination for use by the air carrier in the conduct of its business as a common carrier by air of persons or property. To qualify for this exemption, the foreign air carrier shall timely furnish to the seller a certificate in writing that the property shall be transported and used in the manner described in this subdivision. The certificate shall be substantially in the form prescribed by the board. Acceptance in good faith of such a certificate shall relieve the seller from liability for the sales tax. The foreign air carrier shall maintain records in this state, such as a copy of a bill of lading, and air waybill or cargo manifest, documenting its transportation of the tangible personal property to a foreign destination.

(c) There are exempted from the computation of the amount of

the sales tax the gross receipts from the sale of fuel and petroleum products to a water, air, or rail common carrier, for immediate shipment outside this state for consumption in the conduct of its business as a common carrier after the first out-of-state destination. To qualify for the exemption the common carrier shall furnish to the seller an exemption certificate in writing stating the quantity of fuel and petroleum products claimed as exempt which is to be consumed after reaching the first out-of-state destination. That certificate shall bear the purchaser's valid seller's permit number or valid fuel exemption registration number and shall be substantially in the form prescribed by the board. Acceptance in good faith of that certificate shall relieve the seller from liability for the sales tax.

(d) "First out-of-state destination," as used in this section, means the first point reached outside this state by a common carrier in the conduct of its business as a common carrier at which cargo or passengers are loaded or discharged, cargo containers are added or removed, fuel is bunkered, or landing or docking fees are charged.

"First out-of-state destination," as used in this section, also includes the entry point of the Panama Canal when the carrier is only transiting the canal in the conduct of its business as a common carrier.

(e) "Common carrier," as used in this section, with respect to water transportation, shall be deemed to include any vessel engaged, for compensation, in transporting persons or property in interstate or foreign commerce.

(f) "Foreign air carrier," as used in this section, means a foreign air carrier as defined in Section 1301 of Title 49 of the United States Code.

(g) "Immediate shipment," as used in this section, means that the delivery of the fuel and petroleum products by the seller is directly into a ship, aircraft, or rail car for transportation outside this state and not for storage by the purchaser or any third party.

(h) Any common carrier claiming exemption under subdivision (c) who is not required to hold a valid seller's permit shall be required to register with the board and obtain a fuel exemption registration number and shall be required to file returns as the board may prescribe if either the board notifies the carrier that returns must be filed or the carrier is liable for taxes based upon consumption of fuel erroneously claimed as exempt under this section. A common carrier required to hold a fuel exemption registration number shall be subject to all applicable provisions of this part, Part 1.5 (commencing with Section 7200), and Part 1.6 (commencing with Section 7251).

(i) A common carrier claiming an exemption under subdivision (c) upon request, shall make available to the board records, including, but not limited to, a copy of a log abstract, an air waybill, or a cargo manifest, documenting its transportation of the fuel or petroleum product to an out-of-state destination and the amount claimed as exempt. If the carrier fails to provide these records upon

request, the board may revoke the carrier's fuel exemption registration number.

(j) The board may require any carrier claiming an exemption under this section and required to obtain a fuel exemption registration number to place with it such security as the board may determine pursuant to Section 6701.

(k) Pursuant to subdivisions (a), (b), and (c), any use of the property by the purchasing carrier, other than that incident to the delivery of the property to the carrier and the transportation of the property by the carrier to the first out-of-state destination and subsequent use in the conduct of its business as a common carrier, or a failure of the carrier to document its transporting the property to the first out-of-state destination, shall subject the carrier to liability for payment of sales tax as if it were a retailer making a retail sale of the property at the time of that use or failure, and the sales price of the property to it shall be deemed to be the gross receipts from the retail sale.

SEC. 2. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

CHAPTER 1029

An act to add Division 4.1 (commencing with Section 8301) to the Public Utilities Code, relating to nuclear powerplants.

[Approved by Governor September 26, 1985 Filed with Secretary of State September 27, 1985]

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

SECTION 1. Division 4.1 (commencing with Section 8301) is added to the Public Utilities Code, to read:

DIVISION 4.1. NUCLEAR POWERPLANT COMMUNITIES INFORMATION

8301. This division shall be known and may be cited as the Nuclear Powerplant Communities Information Act of 1985.

8302. Every privately owned and publicly owned public utility generating electricity by means of any nuclear powerplant and every privately owned and publicly owned public utility with a nuclear powerplant that is no longer producing electricity but is in the decommissioning process or is still radioactive shall do both of the following:

(a) Provide periodically, as required by the United States Nuclear Regulatory Commission, but at least every two years, by mail or by hand delivery, with that information as may be required by the commission to be disseminated to the public, either to all residents

within a 10-mile radius of the powerplant or to those persons designated by the commission, whichever is the greater number of persons, a general description of the powerplant, emergency evacuation information, and substantive revisions thereof, and the titles, addresses, and telephone numbers of the federal, state, and local public officials who may be contacted for more detailed information concerning powerplant status and discharges.

(b) Provide, at least twice each year, a copy of the public utility's "Effluent Monitoring Report" to the county health officer in the county where the nuclear powerplant is located.

8303. The Department of the California Highway Patrol shall, on or before July 1, 1986, report to the Legislature regarding the establishment of procedures for notifying local officials of the shipment of hazardous radioactive materials containing commercially produced, spent radioactive fuel.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution 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 1030

An act to add Section 25202.9 to, and to add Article 11.8 (commencing with Section 25244) to Chapter 6.5 of Division 20 of, the Health and Safety Code, relating to hazardous waste, and making an appropriation therefor.

[Approved by Governor September 26, 1985 Filed with Secretary of State September 27, 1985]

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

SECTION 1. Section 25202.9 is added to the Health and Safety Code, to read:

25202.9. The department shall require, as a permit condition when issuing a permit for an onsite hazardous waste treatment, storage, or disposal facility that the generator of the hazardous waste annually certify all of the following information to the department:

(a) The generator of the hazardous waste has established a program to reduce the volume or quantity and toxicity of the hazardous waste to the degree, determined by the generator, to be economically practicable.

(b) The proposed method of treatment, storage, or disposal is that practicable method currently available to the generator which minimizes the present and future threat to human health and the environment.

SEC. 2. Article 11.8 (commencing with Section 25244) is added

to Chapter 6.5 of Division 20 of the Health and Safety Code, to read:

Article 11.8. Hazardous Waste Reduction, Recycling, and Treatment

25244. This article shall be known and may be cited as the Hazardous Waste Reduction, Recycling, and Treatment Research and Demonstration Act of 1985.

25244.1 (a) The Legislature hereby finds and declares that, whenever possible, the generation of hazardous waste is to be reduced or eliminated as expeditiously as possible, and that waste that is generated should be recycled, treated, or disposed of in a manner that minimizes any present or future threats to human health or the environment.

(b) The Legislature further finds that there exists many promising, but as yet unproven, technologies for the reduced generation of hazardous waste and for recycling and treating hazardous waste.

(c) The Legislature further finds that financial commitment by public agencies and private industry for the expeditious development and dispersion of hazardous waste reduction, recycling, and treatment technologies depends upon further research as well as credible and timely demonstrations of the feasibility, environmental acceptability, and reliability of this technology.

(d) It is the intent of the Legislature, in enacting this article, to promote the research, development, and expeditious demonstration of technologies which have the potential to reduce, recycle, and treat hazardous waste. It is further the intent of the Legislature to encourage private sector participation in this program to the greatest extent possible.

25244.2. For purposes of this article, "hazardous waste reduction, recycling, and treatment technologies" mean technologies and techniques which have, as their primary purpose, the reduced generation of hazardous waste, the recycling of hazardous waste, or the conversion of hazardous waste into a less hazardous form. "Hazardous waste reduction, recycling, and treatment technologies" do not include solidification or treatment occurring directly in, or on, the land, such as techniques using evaporation, surface impoundments, or land farming.

25244.3. On or before June 1, 1986, the department shall conduct a study, and make recommendations to the Legislature, on the establishment of a comprehensive program for achieving reductions in hazardous waste generation. The study shall address, but not be limited to, all of the following program elements, as they relate to hazardous waste reduction:

(a) Funding assistance, such as grants, low-interest loans, and tax incentives.

(b) Disposal fee levels and types.

(c) Technical assistance.
(d) Regulatory incentives.
(e) Demonstration projects.
(f) Research activities.
(g) Funding and staffing necessary to fully implement this program.

25244.4. Every generator of hazardous waste shall submit a report to the department, at least once every two years, reporting the changes in volume and toxicity of waste achieved through waste reduction during the period for which the report is issued.

25244.5. The department shall establish a Hazardous Waste Technology, Research, Development, and Demonstration Program, which would consist of both of the following elements:

(a) Contracting with, and providing grants to, universities, governmental agencies, and private organizations for the research and development of hazardous waste reduction, recycling, or treatment technologies pursuant to Section 25244.10.

(b) Providing grants, under specified conditions, to cities, counties, and private organizations for the commercial demonstration of hazardous waste reduction, recycling, or treatment technologies pursuant to Section 25244.6.

25244.6. The department, in consultation with the State Water Resources Control Board, the State Air Resources Board, and the California Waste Management Board, shall do all of the following:

(a) Implement a program to research, develop, and demonstrate hazardous waste reduction, recycling, and treatment technologies at appropriate locations throughout the state.

(b) On or before January 1, 1987, and, in consultation with industry and interested parties, adopt criteria for selecting projects which would receive grants to pay for the construction of equipment which would be used to demonstrate hazardous waste reduction, recycling, or treatment technologies. The criteria shall include provisions which require that, in assessing each project, the department consider the feasibility of the project's particular technology, the research and technical spinoffs likely to be generated by the project, the degree to which the findings of the projects can be disseminated and evaluated for replication elsewhere, and the consistency of, and contributions of, the project to the state's hazardous waste management program.

(c) Using the criteria adopted pursuant to subdivision (b), select projects to receive grants to construct equipment which would be used to demonstrate hazardous waste reduction, recycling, or treatment technologies. The department shall select projects which also meet at least one of the following requirements:

(1) The project has onsite, as well as offsite potential, for the reduction, recycling, or treatment of hazardous waste.

(2) The project has the potential to benefit, or be utilized by, small businesses.

(3) The project is applicable to a range of industries.

25244.7. Consistent with Article VII of the California Constitution, the department may contract for services to be performed to carry out this article, including, but not limited to, environmental control assessment, feasibility analysis, the review of project design, field management responsibilities, and project scheduling and control.

25244.8. Grant funding for equipment construction needed for demonstration of hazardous waste reduction, recycling, and treatment technologies shall be provided to projects selected pursuant to Section 25244.6 in four consecutive steps:

(a) Step I grants shall be made to study the feasibility of a proposed project. Ninety percent of the costs of the feasibility study shall be eligible for grant funding up to a maximum of twenty-five thousand dollars ($25,000) per grant. In activities funded by a step I grant, the applicant shall develop information needed to select the waste reduction, recycling, or treatment alternative, which would be most cost-effective.

(b) Step II grants shall be made for project design. Seventy percent of the costs of the design of the project shall be eligible for grant funding, except that a small business may be eligible for 90 percent of those costs, up to a maximum of fifty thousand dollars ($50,000) per grant. In activities funded by a step II grant, the applicant shall prepare detailed plans and specifications for the selected facilities, establish schedules for implementation, and obtain necessary permits.

(c) Step III grants shall be made for the construction of the facilities. Fifty percent of the costs of constructing the project shall be eligible for grant funding, except that a small business may be eligible for 80 percent of those costs, up to a maximum of four hundred thousand dollars ($400,000) per grant. As a condition of receiving a step III grant, the grantee shall allow the results of the project to be evaluated and the information disseminated to other parties. In activities funded by a step III grant, the applicant shall construct the facilities as designed under a step II grant, procure needed equipment, and obtain necessary permits to operate the facility.

(d) Step IV grants shall be made to evaluate the effectiveness of grant-funded facilities, develop information on compliance with regulatory permits, and assess applicability of the selected approach to other generators of similar hazardous wastes. Ninety percent of the costs of those activities shall be eligible for grant funding, except that a small business may be eligible for 100 percent of those costs, up to a maximum of one hundred thousand dollars ($100,000) per grant.

25244.9. The department shall compile the results of all evaluations of projects funded by step IV grants, as specified in subdivision (d) of Section 25244.8, or the evaluations of any other project which are available to the department, and shall make them available to interested parties as expeditiously as possible. The

department shall notify any interested party of the availability of project evaluations.

25244.10. The department may issue grants to, and enter into contracts with, universities, governmental agencies, and private organizations to research and develop hazardous waste reduction, recycling, or treatment technology. These grants may be applied to personnel, equipment, and administrative costs and shall, to the extent possible, be used to augment other sources of research and development funding, including federal and private funds.

25244.11. The department shall, by January 1, 1988, and each year thereafter, report to the Governor and the Legislature, including the Chairpersons of the Senate Committee on Appropriations, Assembly Committee on Ways and Means, Joint Legislative Budget Committee, and Assembly Committee on Economic Development and New Technologies, on the status, funding, and results of all demonstration and research projects awarded grants.

This report shall include recommendations for legislation and shall identify those state and federal economic and financial incentives which can best accelerate and maximize the research, development, and demonstration of hazardous waste reduction, recycling, and treatment technologies.

SEC. 3. The sum of one million dollars ($1,000,000) is hereby appropriated from the Hazardous Waste Control Account to the State Department of Health Services for the 1985–86 fiscal year for the purposes of carrying out Section 25202.9 of, and Article 11.8 (commencing with Section 25244) of Chapter 6.5 of Division 20 of, the Health and Safety Code.

SEC. 4. Reimbursement to local agencies and school districts for costs mandated by the state pursuant to this act shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code and, if the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), shall be made from the State Mandates Claims Fund, except that no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for those costs which may be incurred by a local agency or school district 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 1031

An act to add and repeal Section 2717 of the Penal Code, relating to prisoners, and declaring the urgency thereof, to take effect immediately

[Approved by Governor September 26, 1985 Filed with Secretary of State September 27, 1985.]

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

SECTION 1. Section 2717 is added to the Penal Code, to read:

2717. The Department of Water Resources shall develop a plan for the utilization of no fewer than 2,000 level I and level II prisoners in water resource projects, including, but not limited to, levee repair, stream clearance, flood control, and water facility maintenance. The department shall submit its plan to the Legislature no later than February 1, 1986.

The department, in preparing the plan, should target projects which, in the absence of prison labor, would go undone or would add to a backlog in needed improvements. The plan shall be fashioned to prevent displacement of civil service employees and shall indicate whatever impact the plan would have on free workers. As used in this section, "displacement" includes layoff, demotion, involuntary transfer to a new class, involuntary transfer to a new location requiring change of residence, and time base reductions.

This section shall remain in effect until January 1, 1987, and on that date shall be repealed, unless a later enacted statute, which is chaptered on or before that date, deletes or extends that date.

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

In order to expeditiously identify projects which may feasibly and economically be performed by convicts for the benefit of the state within the meaning of Section 5 of Article XIV of the Constitution, it is necessary that this act take immediate effect.

CHAPTER 1032

An act to amend Sections 23161 and 23181 of the Vehicle Code, relating to alcohol and drug education, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 26, 1985 Filed with Secretary of State September 27, 1985]

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

SECTION 1. Section 23161 of the Vehicle Code is amended to read:

23161. (a) Except as provided in subdivision (f), if the court grants probation to any person punished under Section 23160, in addition to the provisions of Section 23206 and any other terms and conditions imposed by the court, the court shall impose as a condition

of probation that the person be subject to one of the following:

(1) Be confined in the county jail for at least 48 hours but not more than six months and pay a fine of at least three hundred ninety dollars ($390) but not more than one thousand dollars ($1,000). The court may order the Department of Motor Vehicles to suspend the privilege to operate a motor vehicle pursuant to paragraph (1) of subdivision (a) of Section 13352 when this condition of probation is imposed.

(2) Pay a fine of at least three hundred ninety dollars ($390) but not more than one thousand dollars ($1,000) and have the privilege to operate a motor vehicle restricted for 90 days to necessary travel to and from that person's place of employment and to and from the program described in subdivision (b) 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.

(b) In any county where the board of supervisors has approved such a program or programs, the court shall also impose as a condition of probation that the driver shall participate in, and successfully complete, an alcohol or drug education program, or both of these programs, as designated by the court.

(c) Each county which has approved an alcohol or drug education program or programs shall make provision for persons who cannot afford the program fee, in order to enable those persons to participate. The county may require that the program report the failure of a person referred to the program to enroll in the program to the referring court.

(d) In order to assure effectiveness of the alcohol or drug education program, the county shall provide, as appropriate, services to ethnic minorities, women, youth, or any other group that has particular needs related to the program.

(e) (1) Any person required to successfully complete an alcohol or drug education program as a condition of probation shall enroll in the program and, except when enrollment is required in a program that is required to report failures to enroll to the court, shall furnish proof of the enrollment to the court within the period of time and in the manner specified by the court. The person shall also participate in and successfully complete the program and, excepting when the person is required to enroll in a program that is required to report unsuccessful program completion to the court, shall furnish proof of successful completion within the period of time and in the manner specified by the court. The court shall revoke the person's probation pursuant to Section 23207, except for good cause shown, for the person's failure to comply with this paragraph.

(2) An alcohol or drug education program shall report to the court within the period of time and in the manner specified by the court any person who fails to successfully complete the program.

(3) The court, in establishing the reporting requirements in this subdivision, shall consult with the county alcohol program administrator.

(f) Notwithstanding subdivision (a), if the offense occurred in a vehicle requiring a driver with a class 1 or class 2 driver's license or with a certificate issued pursuant to Section 12804.1, the court shall upon conviction order the department to suspend the driver's privilege pursuant to paragraph (1) of subdivision (a) of Section 13352.

SEC. 2. Section 23181 of the Vehicle Code is amended to read:

23181. (a) If the court grants probation to any person punished under Section 23180, in addition to the provisions of Section 23206 and any other terms and conditions imposed by the court, the court shall impose as a condition of probation that the person be confined in the county jail for at least five days but not more than one year and pay a fine of at least three hundred ninety dollars ($390) but not more than one thousand dollars ($1,000). The person's privilege to operate a motor vehicle shall be suspended by the Department of Motor Vehicles pursuant to paragraph (2) of subdivision (a) of Section 13352.

(b) In any county where the county alcohol program administrator has certified, and the board of supervisors has approved, such a program or programs, the court shall also impose as a condition of probation that the driver shall participate in, and successfully complete, an alcohol or drug education program, as designated by the court.

(c) Each county which has approved and certified an alcohol or drug education program or programs shall make provision for persons who cannot afford the program fee, in order to enable those persons to participate. The county may require that the program report the failure of a person referred to the program to enroll in the program to the referring court.

(d) In order to assure effectiveness of the alcohol or drug education program, the county shall provide, as appropriate, services to ethnic minorities, women, youth, or any other group that has particular needs related to the program.

(e) (1) Any person required to successfully complete an alcohol or drug education program as a condition of probation shall enroll in the program and, except when enrollment is required in a program that is required to report failures to enroll to the court, shall furnish proof of the enrollment to the court within the period of time and in the manner specified by the court. The person shall also participate in and successfully complete the program and, excepting when the person is required to enroll in a program that is required to report unsuccessful program completion to the court, shall furnish proof of successful completion within the period of time and in the manner specified by the court. The court shall revoke the person's probation pursuant to Section 23207, except for good cause shown, for the person's failure to comply with this paragraph.

(2) An alcohol or drug education program shall report to the court within the period of time and in the manner specified by the court any person who fails to successfully complete the program.

(3) The court, in establishing the reporting requirements in this subdivision, shall consult with the county alcohol program administrator.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution 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. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to permit the approved alcohol and drug education programs to report to the court when a person fails to attend and complete alcohol or drug education programs as ordered by the court, instead of requiring the person to report completion within 120 days, and to permit this practice, which is existing in some jurisdictions, to continue, it is necessary that this act take effect immediately.

CHAPTER 1033

An act to amend Sections 94149, 94150, and 94153 of the Education Code, to amend Sections 15445, 15446, 15453, 15453.5, 15453.6, 53570, 53571, 53582, and 53583 of, to add Sections 53584, 53585, 53587, 53588, 53589, and 53590 to, to add Article 12 (commencing with Section 53590) to Chapter 3 of Part 1 of Division 2 of Title 5 of, and to repeal Sections 53573, 53584, and 53585 of, the Government Code, to repeal Section 52032.5 of the Health and Safety Code, and to amend Section 33.2 of the Kings River Conservation District Act (Chapter 931 of the Statutes of 1951), relating to bonds, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 26, 1985 Filed with Secretary of State September 27, 1985]

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

SECTION 1. Section 94149 of the Education Code is amended to read:

94149. All moneys received pursuant to the authority of this chapter, whether as proceeds from the sale of bonds or as revenues, shall be deemed to be trust funds to be held and applied solely as provided in this chapter. Until the funds are applied as provided in this chapter, and notwithstanding any other provision of law, the moneys may be invested in any obligations or securities authorized by resolutions of the authority authorizing the issuance of the bonds. Any officer with whom, or any bank or trust company with which,

the moneys are deposited shall act as trustee of the moneys and shall hold and apply the moneys for the purposes hereof, subject to any regulations adopted pursuant to this chapter and the resolution authorizing the issuance of any bonds or the trust agreement securing the bonds.

SEC. 2. Section 94150 of the Education Code is amended to read:

94150. (a) The authority may issue bonds of the authority for the purpose of refunding any bonds or notes of the authority then outstanding, including the payment of any redemption premium thereon and any interest accrued or to accrue to the earliest date of redemption or subsequent date of redemption, purchase or maturity of the bonds, to be refunded and, if deemed advisable by the authority, for the additional purpose of paying all or any part of the cost of constructing and acquiring additions, improvements, extensions, or enlargements of a project or any portion of a project.

(b) The proceeds of any bonds issued for the purpose of refunding outstanding bonds may, in the discretion of the authority, be applied to the purchase, retirement at maturity, or redemption prior to maturity of any outstanding bonds either on their earliest redemption date or dates, any subsequent redemption date or dates, upon their purchase or maturity, or paid to a third person to assume the authority's obligation to make the payments, and may, pending that application, be placed in escrow to be applied to the purchase, retirement at maturity, or redemption on the date or dates determined by the authority.

(c) Any proceeds placed in escrow may, pending their use, be invested and reinvested in obligations or securities authorized by resolutions of the authority, payable or maturing at the time or times as are appropriate to assure the prompt payment of the principal, interest, and redemption premium, if any, of the outstanding bonds to be refunded at maturity or redemption of the bonds to be refunded either at their earliest redemption date or dates or any subsequent redemption date or dates. The interest, income and profits, if any, earned or realized on any such investment may also be applied to the payment of the outstanding bonds to be refunded or to the payment of interest on the refunding bonds. 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 may be returned to the authority for use by the authority.

(d) The portion of the proceeds of any bonds issued for the additional purpose of paying all or any part of the cost of constructing and acquiring additions, improvements, extensions, or enlargements of a project may be invested and reinvested in obligations or securities authorized by resolution of the authority, maturing not later than the time or times when the 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 the investment may be applied to the payment of all or any part of the cost or may be used

by the authority in any lawful manner.

(e) All of those refunding bonds are subject to this chapter in the same manner and to the same extent as other bonds issued pursuant to this chapter.

SEC. 3. Section 94153 of the Education Code is amended to read:

94153. The total amount of bonds authorized to be outstanding at any one time under this chapter shall be seven hundred fifty million dollars ($750,000,000). Bonds that are refunded pursuant to Section 94150 or for which the payment of funds otherwise have been placed in escrow prior to maturity or redemption shall no longer be treated as outstanding, for the purpose of this section.

SEC. 4. Section 15445 of the Government Code is amended to read:

15445. All moneys received pursuant to this part, whether as proceeds from the sale of revenue bonds or as revenues, shall be deemed to be trust funds to be held and applied solely as provided in this part. Until the funds are applied as provided in this part, and notwithstanding any other provision of law, the moneys may be invested in any obligations or securities authorized by resolutions of the authority authorizing the issuance of the bonds. Any officer with whom, or any bank or trust company with which, the moneys are deposited shall act as trustee of the moneys and shall hold and apply the moneys for the purposes hereof, subject to any regulations adopted pursuant to this part and the resolution authorizing the issuance of the bonds or the indenture or trust agreement securing the bonds.

SEC. 5. Section 15446 of the Government Code is amended to read:

15446. (a) The authority may provide for the issuance of bonds of the authority for the purpose of refunding any bonds or any series or issue of bonds of the authority then outstanding, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption, purchase, or maturity of the bonds.

(b) The proceeds of any bonds issued for the purpose of refunding of outstanding bonds may, in the discretion of the authority, be applied to the purchase, redemption prior to maturity, or retirement at maturity of any outstanding bonds on their earliest redemption date or dates, upon their purchase or maturity, or paid to a third person to assume the authority's obligation to make the payments, and may, pending that application, be placed in escrow to be applied to the purchase, retirement at maturity, or redemption on the date or dates determined by the authority.

(c) Any proceeds placed in escrow may, pending their use, be invested and reinvested in obligations or securities authorized by resolutions of the authority, payable or maturing at the time or times as are appropriate to assure the prompt payment of the principal, interest, and redemption premium, if any, of the outstanding bonds to be refunded at maturity or redemption of the bonds to be

refunded either at their earliest redemption date or dates or any subsequent redemption date or dates. The interest, income and profits, if any, earned or realized on any such investment may also be applied to the payment of the outstanding bonds to be refunded or to the payment of interest on the refunding bonds. 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 may be returned to the authority for use by the authority.

(d) All of the refunding bonds are subject to this part in the same manner and to the same extent as other bonds issued pursuant to this part.

SEC. 6. Section 15453 of the Government Code is amended to read:

15453. The total amount of bonds which may be outstanding at any one time under this part shall not exceed seven hundred sixty-seven million dollars ($767,000,000). Bonds that are refunded pursuant to Section 15446 or for which money or securities in amounts necessary to pay or redeem the principal, interest, and any redemption premium thereon otherwise have been deposited in trust shall not be deemed outstanding for the purposes of this section.

SEC. 7. 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 that are refunded pursuant to Section 15446 or for which moneys or securities in amounts necessary to pay or redeem the principal, interest, and any redemption premium thereon otherwise have been deposited in trust shall not be deemed outstanding for the purposes of this section.

SEC. 8. Section 15453.6 of the Government Code is amended to read:

15453.6. Notwithstanding Section 15453 or 15453.5, the total amount of bonds which may be outstanding at any one time is hereby increased by an amount not exceeding eight hundred seventy-five million dollars ($875,000,000). Bonds that are refunded pursuant to Section 15446 or for which moneys or securities in amounts necessary to pay or redeem the principal, interest, and any redemption premium thereon otherwise have been deposited in trust shall not be deemed outstanding for the purposes of this section.

SEC. 9. Section 53570 of the Government Code is amended to read:

53570. The following terms shall have the following meanings:

(a) "Local agency" means public district, public corporation, authority, agency, board, commission, county, city and county, city, school district, any other public entity, or any improvement district or zone thereof.

(b) "Revenue bonds" means any of the following:

(1) Bonds, warrants, notes, or other evidence of indebtedness of a local agency payable from funds other than the proceeds of ad valorem taxes or the proceeds of assessments levied without limitation as to rate or amount by the local agency upon property in the local agency.

(2) Bonds, notes, interim certificates, debentures, or other obligations of a redevelopment agency, including, but not limited to, obligations payable in whole or in part from taxes allocated to, and paid into, a special fund of the agency pursuant to Article 6 (commencing with Section 33670) of Chapter 6 of Part 1 of Division 24 of the Health and Safety Code.

SEC. 10. Section 53571 of the Government Code is amended to read:

53571. It is hereby declared that it is a public purpose for a local agency to issue bonds for the purpose of refunding any revenue bonds of the local agency, whether due or not due, or which have or which may hereafter become payable at the option of the local agency, by consent of the bondholders, or by any lawful means.

Any refunding bonds may be outstanding at the same time as the revenue bonds for which the refunding bonds are issued, subject to any contractual limitations created in the proceedings for the issuance of the revenue bonds, and may be on a parity with, or subordinate to, the revenue bonds.

The refunding bonds may be issued pursuant to Article 11 (commencing with Section 53580) or under any applicable revenue bond law, including, but not limited to, the Revenue Bond Law of 1941 (Chapter 6 (commencing with Section 54300)), the Parking Law of 1949 (Part 2 commencing with Section 32500) of Division 18 of the Streets and Highways Code), the Parking District Law of 1951 (Part 4 (commencing with Section 35100) of Division 18 of the Streets and Highways Code), the joint exercise of powers provisions contained in Article 1 (commencing with Section 6500) and Article 2 (commencing with Section 6540) of Chapter 5 of Division 7 of Title 1, and the Community Redevelopment Law (Part 1 (commencing with Section 33000) of Division 24 of the Health and Safety Code), and shall be deemed issued for a valid public purpose and a proper bond purpose under Article 11 (commencing with Section 53580) or the applicable revenue bond law, and interest upon the refunding bonds or the bonds to be refunded from the date thereof to the date of payment of the bonds to be refunded or the date upon which the bonds to be refunded will be paid pursuant to call or agreement with the holders of the bonds may be paid from the proceeds of the refunding bonds or the investment of the proceeds.

SEC. 10.5. Section 53573 of the Government Code is repealed.

SEC. 11. Section 53582 of the Government Code is amended to read:

53582. The proceedings of any local agency authorizing the issuance of bonds shall not require the deposit of any more moneys, obligations, and federal securities as are sufficient, taking into

account both the principal amount of the moneys, obligations, and securities and the interest to become due thereon, to implement the refunding of those bonds. Federal securities and the interest thereon shall be used to satisfy any requirement of cash, money, specie, or lawful money in any proceeding conducted by a local agency before September 19, 1975.

SEC. 12. Section 53583 of the Government Code is amended to read:

53583. (a) Any local agency may issue bonds pursuant to this article or any revenue bond law under which the local agency is otherwise authorized to issue bonds for the purpose of refunding any revenue bonds of the local agency.

(b) The proceedings of any local agency authorizing the issuance of any refunding bonds may provide all of the following for those bonds:

(1) The form of the bonds to be issued as serial bonds, term bonds, or installment bonds, or any combination thereof.

(2) The date or dates to be borne by the bonds.

(3) The time or times of maturity of the bonds.

(4) The interest, fixed or variable, to be borne by the bonds.

(5) The time or times that the bonds shall be payable.

(6) The denominations, form, and the registration privileges of the bonds.

(7) The manner of execution of the bonds.

(8) The place or places the bonds are payable.

(9) The terms of redemption.

(10) Any other terms and conditions determined necessary that the local agency.

(c) (1) The refunding bonds may be sold at public or private sale or on a negotiated sale basis and at the prices, above or below par, as the local agency determines.

(2) (A) If the local agency determines to sell the bonds at public sale, the local agency shall advertise the bonds for sale and invite sealed bids on the bonds by publication of a notice once at least 10 days before the date of the public sale in a newspaper of general circulation circulated within the boundaries of each local agency to be aided by the project to be financed by the issuance of the bonds. If one or more satisfactory bids are received pursuant to the notice, the bonds shall be awarded to the highest responsible bidder. If no bids are received or if the local agency determines that the bids received are not satisfactory as to price or responsibility of the bidders, the local agency may reject all bids received, if any, and either readvertise or sell the bonds at private sale or on a negotiated sale basis.

(B) If the local agency determines to sell the bonds at private sale or on a negotiated sale basis, the local agency shall send a written statement, within two weeks after the bonds are sold, to the California Debt Advisory Commission explaining the reasons why the local agency determined to sell the bonds at private sale or on

a negotiated sale basis instead of at public sale.

SEC. 13. Section 53584 of the Government Code is repealed.

SEC. 14. Section 53584 is added to the Government Code, to read:

53584. The proceeds of refunding bonds may be applied to the purchase, retirement at maturity, or redemption of the bonds to be refunded either at their earliest redemption date or dates, any subsequent redemption date or dates, upon their purchase or retirement maturity, or paid to a third person to assume the local agency's obligation to make the payments, and may, pending that application, be placed in escrow and invested or reinvested in any obligations or securities, and any interest or other increment earned or realized on any such investment may be applied to the payment of the bonds to be refunded or to the payment of interest on the refunding bonds, as provided in the proceedings of the local agency authorizing the issuance of the refunding bonds.

SEC. 15. Section 53585 of the Government Code is repealed.

SEC. 16. Section 53585 is added to the Government Code, to read:

53585. A local agency that issues refunding bonds may obtain insurance or other credit enhancement of the refunding bonds or of the escrow referred to in Section 53584 and may enter into any credit reimbursement agreement or other agreement with any person or entity. The agreement shall contain the terms of the credit reimbursement, interest rate, security, and any other terms the local agency deems necessary or appropriate.

SEC. 17. Section 53587 is added to the Government Code, to read:

53587. In determining the amount of refunding bonds to be issued, the local agency may include all costs of issuing the refunding bonds and of refunding the bonds to be refunded, including the amount of any premium required to be paid to redeem any of the bonds to be refunded, any capitalized interest or bond reserve funds which the local agency determines to be reasonably required, and the cost of any insurance or other credit enhancement authorized by Section 53585.

SEC. 18. Section 53588 is added to the Government Code, to read:

53588. The issuance, transfer, and interest income earned on any bonds issued by a local agency under this article is exempt from taxation of every kind by any state or local entity. The local agency shall not be required to pay any taxes on, or with respect to, the income earned on the investment of proceeds of the bonds placed in escrow or otherwise.

SEC. 19. Section 53589 is added to the Government Code, to read:

53589. This article provides a complete, additional, and alternative method for doing the things authorized by this article and shall be regarded as supplemental and additional to the powers conferred by any other laws, and the issuance of bonds and the entering into any credit reimbursement or other agreement under this article does not need to comply with the requirements of any other law applicable to the local agency or the issuance of bonds or the incurring of indebtedness.

SEC. 20. Section 53590 is added to the Government Code, to read:

53590. 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 refunding bonds under this article, and the legality and validity of all proceedings previously taken or proposed to be taken in a resolution or ordinance adopted by the local agency for the authorization, issuance, sale, and delivery of the bonds, for entering into any credit reimbursement or other agreement in connection therewith, for the use of the proceeds of the bonds, and for the payment of the principal of, and interest on, the bonds.

SEC. 21. Article 12 (commencing with Section 53590) is added to Chapter 3 of Part 1 of Division 2 of Title 5 of the Government Code, to read:

Article 12. Financial Advisers and Bond Counsel

53590. The following terms shall have the following meanings for purposes of this article:

(a) "Bond counsel" means any attorney or firm of attorneys that represents the issuer of a new issue of bonds with respect to the issuance of the bonds and that renders a written legal opinion to, or as counsel for, the issuer with respect to the validity of the bonds.

(b) "Bond" means any bonds, notes, or other evidences of indebtedness issued by any local agency or certificates of participation in any lease, sale, or other obligations of any local agency. "New issue of bonds" means the original issuance of bonds, including refunding bonds, by the issuer to one or more purchasers until, in the case of underwriters, the end of the underwriting period. In the case of bonds with a tender or put option feature, or commercial paper, "new issue of bonds" means only the original issuance and not any remarketing, rollover, or reissuance.

(c) A "financial advisory relationship" exists when an investment firm, or other person or firm in the business of providing financial advisory or financial consulting services to issuers with respect to municipal securities, renders, or enters into an agreement to render, financial advisory or financial consultant services to, or on behalf of, an issuer with respect to a new issue or issues of bonds, including advice with respect to the structure, timing, terms, and other similar matters concerning the issue or issues, for a fee or other compensation or in expectation of such compensation for the rendering of those services. However, a financial advisory relationship does not exist when, in the course of acting as an underwriter, an investment firm renders advice to an issuer, including advice with respect to the structure, timing, terms, and other similar matters concerning a new issue of bonds or when, for any new issuer of bonds, an investment firm advises and assists an issuer with respect to obtaining consent from holders of previously issued bonds in connection with, among other things, amendments

of covenants or defaults.

(d) "Investment firm" means any bank, investment bank, partnership, corporation, association, or other firm engaged in the business of buying and selling bonds for its own account or for the account of others as part of its regular business.

(e) "Local agency" means a public district, public corporation, authority, agency, board, commission, county, city and county, city, school district, or other local public entity.

53591. No investment firm that has, or has had, a financial advisory relationship with respect to a new issue of bonds shall acquire as principal either alone or as a participant in a syndicate or other similar account formed for the purpose of purchasing, directly or indirectly, from the issuer all or any portion of the issue, or arrange for the acquisition or participation by a person controlling, controlled by, or under common control with the investment firm, unless the issue is to be sold by the issuer at competitive bid and the issuer has, prior to the bid, expressly consented in writing to the acquisition or participation. The limitations and requirements set forth in this section also apply to any investment firm controlling, controlled by, or under common control with the investment firm having a financial advisory relationship. The use of the term "indirectly" in this section does not preclude any investment firm which has a financial advisory relationship with respect to a new issue of bonds from purchasing any of those bonds from an underwriter, either for its own trading account or for the account of its customers, except to the extent that the purchase is made to contravene the purpose and intent of this section.

53592. Each financial advisory relationship shall be evidenced by a written document executed prior to, upon, or promptly after the inception of the financial advisory relationship, or promptly after the creation or selection of the issuer if the issuer does not exist or has not been determined at the time the relationship commences. That written document shall set forth the basis of compensation for the financial advisory services to be rendered, which, except for bonds issued prior to January 1, 1988, to finance single-family or multifamily housing, shall be on a basis other than as a percentage of the amount of the bonds to be sold.

53593. No bond counsel with respect to a new issue of bonds shall also be counsel, with respect to that new issue of bonds, to the underwriter or other initial purchaser of the bonds. This section does not preclude the bond counsel from rendering one or more opinions to the underwriter or purchaser with respect to the bonds, the documents or laws pursuant to which the bonds are issued, the official statement, offering circular, or other disclosure document describing the bonds, or any related matter, if the opinion is rendered as bond counsel and not as counsel to the underwriter or purchaser.

53594. Injunctive relief shall be available, subject to judicial discretion, to prohibit or enjoin any violation of this article, but no

violation shall affect the authority, validity, or enforceability of bonds.

SEC. 22. Section 52032.5 of the Health and Safety Code is repealed.

SEC. 23. Section 33.2 of the Kings River Conservation District Act (Chapter 931 of the Statutes of 1951), is amended to read:

Sec. 33.2. Notwithstanding Section 54388 of the Government Code or any other provision of law, the board may sell up to four hundred fifty million dollars ($450,000,000) principal amount of the bonds authorized to be issued for the Dinkey Creek Hydroelectric Project and related facilities at the election held in the district on November 3, 1981, pursuant to the Revenue Bond Law of 1941 (Chapter 6 (commencing with Section 54300) of Part 1 of Division 2 of Title 5 of the Government Code) at private sale or at public sale, whichever it determines.

Article 12 (commencing with Section 53590) of Chapter 3 of Part 1 of Division 2 of Title 5 of the Government Code shall not be applicable to the issuance of those bonds if, in addition to any underwriter that has, or has had, a financial advisory relationship with respect to the issuance of bonds, there is an equal managing underwriter that does not have, or has not had, such a financial advisory relationship.

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:

Without immediate implementation of this act, the educational facilities covered by the California Educational Facilities Authority Act will run out of funds. To avoid this problem, it is necessary that this act take effect immediately.

In addition, existing provisions of law governing the issuance of refunding bonds and the investment of the proceeds of those bonds were enacted prior to both of the following events:

(1) The development of certain refinancing techniques now available to issuers who are not subject to those existing provisions of law.

(2) The issuance of certain federal regulations concerning "arbitrage" profits which curb the refunding practices addressed differently by Article 11 (commencing with Section 53580) of Chapter 3 of Part 1 of Division 2 of Title 5 of the Government Code.

These existing provisions prevent public entities in California from refinancing their outstanding indebtedness, from utilizing certain refinancing techniques, or from realizing the full benefits of refinancing which would otherwise be available. In order to authorize public entities in California to effectively use refinancing as a tool in the prudent management of their fiscal affairs as soon as possible, and in order to control the issuance of refunding bonds and the investment of proceeds thereof, and to enact provisions regulating financial advisory relationships, as soon as possible, this act

must take effect immediately.

CHAPTER 1034

An act to add Chapter 7.6 (commencing with Section 12925) to Part 6 of Division 6 of the Water Code, relating to water resources, and making an appropriation therefor.

[Approved by Governor September 26, 1985. Filed with Secretary of State September 27, 1985.]

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

SECTION 1. Chapter 7.6 (commencing with Section 12925) is added to Part 6 of Division 6 of the Water Code, to read:

CHAPTER 7.6. GROUNDWATER RECHARGE FACILITIES FINANCING

Article 1. Short Title

12925. This chapter shall be known and may be cited as the Groundwater Recharge Facilities Financing Act.

Article 2. Declaration of Policy

12926. The Legislature finds and declares as follows:

(a) Recharge is an effective way to maximize availability of scarce water supplies throughout the state.

(b) There are many groundwater basins in the state that are in an overdraft condition.

(c) It is necessary for the health, safety, and welfare of the people of the state that the groundwater basins of the state be recharged.

(d) Many of the agencies that have responsibility for managing groundwater are unable to finance adequate groundwater recharge and storage programs, and it is in the interest of the people of California that the state provide financial assistance to implement these programs.

Article 3. Definitions

12927. As used in this chapter, unless the context requires otherwise:

(a) "In-lieu recharge" means accomplishing increased storage of groundwater by providing interruptible surface water to a user who relies on groundwater as a primary supply, to accomplish groundwater storage through the direct use of that surface water in lieu of pumping groundwater. In-lieu recharge would be used rather

than continuing pumping while artificially recharging with the interruptible surface waters.

(b) "Project" means land and facilities for artificial groundwater recharge through methods which include, but are not limited to, (1) percolation using basins, pits, ditches and furrows, modified streambed, flooding, and well injection or (2) in-lieu recharge. "Project" also means land and facilities already in use for the purpose of groundwater recharge.

"Project" may include any of the following:

(1) Instream facilities for regulation of water levels, but not regulation of streamflow by storage to accomplish diversion from the waterway.

(2) Agency owned facilities for extraction.

(3) Conveyance facilities to the recharge site, including devices for flow regulation and measurement of recharge waters.

Any part or all of the project facilities, including the land under the facilities, may consist of the separable features, or an appropriate share of multipurpose features, of a larger system, or both.

(c) "Local agency" or "agency" means any city, county, district, joint powers authority, or other political subdivision of the state involved with water management.

Article 4. Loans

12928. (a) The money in the 1985 Water Conservation and Groundwater Recharge Bond Fund shall be available for appropriation by the Legislature for loans to local agencies to aid in the conduct of projects for artificial groundwater recharge and the purposes set forth in this section. The loan program shall be administered by the department. Administrative costs of the loan program shall be paid from moneys available therefor in the 1985 Water Conservation and Groundwater Recharge Bond Fund as appropriated by the Legislature in the annual Budget Bill.

(b) The department may enter into a contract for a loan if it finds that the agency has the ability to repay the requested loan, that the project is economically justified, and that the project is feasible from an engineering and hydrogeologic viewpoint. However, any contract concerning an eligible project for artificial groundwater recharge shall include, in substance, all of the following:

(1) An estimate of the reasonable cost and benefit of the project, including a feasibility report which shall set forth the economic justification and the engineering, hydrogeologic, and financial feasibility of the project, and shall include explanations of the proposed facilities and their relation to other water-related facilities in the basin or region.

(2) An agreement by the agency to proceed expeditiously to complete the project in conformance with the approved plans and specifications and the feasibility report and to operate and maintain the project properly upon completion throughout the repayment

period.

(3) Loan contracts may not provide a moratorium on payment of principal or interest.

(4) Loans shall be for a period of up to 25 years with an interest rate set annually by the department at 50 percent of the average interest rate paid by the state on general obligation bonds in the calendar year immediately preceding the year in which the loan agreement is executed.

(5) No single project may receive more than five million dollars ($5,000,000) from the department.

12928.1. The department shall give priority to projects of agencies located in overdrafted groundwater basins and those projects of critical need, to projects whose feasibility studies show the greatest economic justification and the greatest engineering and hydrogeologic feasibility as determined by the department, and to projects located in areas which have existing water management programs.

12928.2 A contract for a loan pursuant to Section 12928 shall require the prior approval of the California Water Commission.

12928.3. The department shall adopt rules and regulations necessary to carry out the purposes of this chapter. The rules and regulations shall include, but not be limited to, criteria and procedures for establishing the eligibility of an agency and a project to qualify for loans, and any terms and conditions necessary to protect the investment of the state and to carry out the purposes of this chapter.

12928.4. As a part of the contract for a loan, the agency shall agree to indemnify and hold and save the state, the department, and its employees free from any and all liability for damages that may arise out of the work performed on projects financed under this chapter.

12928.5. The department shall submit a biennial report to the Legislature on the number of loans made pursuant to this chapter and the amounts involved, together with any other appropriate information within 45 days after the commencement of each regular session.

12928.6. Groundwater recharge projects developed pursuant to this chapter shall be eligible for funding pursuant to any bond law previously or subsequently approved by the voters if the projects are otherwise eligible for funding under the bond law.

CHAPTER 1035

An act to amend Section 53360.4 of, and to add and repeal Sections 6553.1 and 53534 of, the Government Code, and to amend Sections 51511, 51514, 51613, and 51646 of the Water Code, relating to local agencies.

[Approved by Governor September 26, 1985 Filed with Secretary of State September 27, 1985.]

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

SECTION 1. Section 6553.1 is added to the Government Code, to read:

6553.1. Notwithstanding Section 6553 or any other provision of law, the governing body of the Kaweah River Power Authority may determine, and may provide in any indenture or resolution providing for the issuance of bonds pursuant to this article, for the bonds to bear interest at a rate or rates not exceeding 18 percent per year if, prior to issuing the bonds, the governing body determines and states in the indenture or resolution that, on the basis of its knowledge and belief, the interest on the bonds will be subject to federal income taxation pursuant to Section 103 of the Internal Revenue Code as that section existed on January 1, 1986.

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 53360.4 of the Government Code is amended to read:

53360.4. Notwithstanding Section 53360, the legislative body may sell bonds at private sale, without advertising for bids, if the legislative body determines that the action would result in a lower overall cost.

SEC. 2.3. Section 53534 is added to the Government Code, to read:

53534. (a) Any provision of law to the contrary notwithstanding, the County of Los Angeles and the County of Orange may enter into contracts commonly known as "interest rate swap agreements" or "forward payment conversion agreements" with any person providing for the exchange of payments between the person and the county including, without limitation, contracts providing for the exchange of fixed interest payments for floating payments or floating interest payments for fixed payments, or a combination thereof. The contracts may be made upon the terms and conditions established by the boards of supervisors of those counties. The authority conferred by this section includes the authority to enter into any and all contracts incident to the exercise of the authority conferred by this section including, without limitation, contracts to obtain credit enhancement devices and contracts for the performance of professional services.

(b) 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. However, the repeal of this section on that date shall not affect the validity of any contracts entered into pursuant to subdivision (a) prior to January 1, 1987.

Section 51511 of the Water Code is amended to read:

51511. Unpaid assessments on which bonds have been issued shall bear interest at the rate of 1 percent per month from the date of the bonds originally issued thereon until the bonds and any refunding bonds issued thereon are fully paid, and the interest due at any time on the unpaid assessment may be called without calling any installment of the assessment. The word installment as used in this section shall be construed as applying to interest as well as the principal as the case may be.

SEC. 3. Section 51514 of the Water Code is amended to read:

51514. After the period of 30 days all unpaid original assessments shall bear interest at the rate of 1 percent per month.

SEC. 4. Section 51613 of the Water Code is amended to read:

51613. Any person interested in the parcel may redeem it at any time within one year after the sale by paying to the county treasurer the amount for which it was sold, with interest thereon at the rate of 1 percent per month from the date of the sale.

SEC. 5. Section 51646 of the Water Code is amended to read:

51646. Any person interested in the parcel may redeem it within one year after the date of sale, by paying to the county treasurer for the purchaser a sum equal to the purchase price stated in the certificate with interest thereon at the rate of 1 percent per month from the date of sale to such redemption, either in whole or in part, in cash or in bonds of the district, or their interest coupons, issued on the assessment and then matured, or to mature within 60 days from the date of payment.

SEC. 6. The Legislature finds and declares that Section 6553.1 of the Government Code, as added by Section 1 of this act, is necessary since special facts and circumstances applicable to the Kaweah River Power Authority and not generally applicable make the accomplishment of this purpose impossible by any general law. The authority proposes to retrofit the Terminus Dam on the Kaweah River with a hydroelectric unit designed to provide approximately 17 megawatts of new power to be sold to the Southern California Edison Company. Because the Terminus Dam is owned by the United States Army Corps of Engineers and since the power is to be purchased by a private party, it is likely that current federal law will deem the revenue bonds, issued by the authority to finance the retrofitting of the dam, to be federally taxable. If this occurs, the authority will essentially not be able to market its revenue bonds given the current 12 percent interest rate ceiling.

The Legislature further finds and declares that this is the only such situation involved, that the purpose of Section 1 of this act is impossible to accomplish by any general law, that special legislation applicable to the Kaweah River Power Authority is therefore necessary, and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution.

CHAPTER 1036

An act to add Section 5328.01 to the Welfare and Institutions Code, relating to mental and developmental disabilities.

[Approved by Governor September 26, 1985. Filed with Secretary of State September 27, 1985]

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

SECTION 1. Section 5328.01 is added to the Welfare and Institutions Code, to read:

5328.01. Notwithstanding Section 5328, all information and records made confidential under the first paragraph of Section 5328 shall also be disclosed to governmental law enforcement agencies investigating evidence of a crime where the records relate to a patient who is confined or has been confined as a mentally disordered sex offender or pursuant to Section 1026 or 1368 of the Penal Code and the records are in the possession or under the control of any state hospital serving the mentally disabled, as follows:

(a) In accordance with the written consent of the patient; or

(b) If authorized by an appropriate order of a court of competent jurisdiction in the county where the records are located compelling a party to produce in court specified records and specifically describing the records being sought, when the order is granted after an application showing probable cause therefor. In assessing probable cause, the court shall do all of the following:

(1) Weigh the public interest and the need for disclosure against the injury to the patient, to the physician-patient relationship, and to the treatment services.

(2) Determine that there is a reasonable likelihood that the records in question will disclose material information or evidence of substantial value in connection with the investigation or prosecution.

(3) Determine that the crime involves the causing of, or direct threatening of, the loss of life or serious bodily injury.

(4) In granting or denying a subpoena, the court shall state on the record the reasons for its decision and the facts which the court considered in making such a ruling.

(5) If a court grants an order permitting disclosure of such records, the court shall issue all orders necessary to protect, to the maximum extent possible, the patient's privacy and the privacy and confidentiality of the physician-patient relationship.

(6) Any records disclosed pursuant to the provisions of this subdivision and any copies thereof shall be returned to the facility at the completion of the investigation or prosecution unless they have been made a part of the court record.

(c) A governmental law enforcement agency applying for disclosure of patient records under this subdivision may petition the court for an order, upon a showing of probable cause to believe that

delay would seriously impede the investigation, which requires the ordered party to produce the records forthwith.

(d) Records obtained by a governmental law enforcement agency pursuant to this section shall not be disseminated to any other agency or person unless such dissemination relates to the criminal investigation for which the records were obtained by the governmental law enforcement agency. The willful dissemination of any record in violation of this paragraph shall constitute a misdemeanor.

(e) If any records obtained pursuant to this section are of a patient presently receiving treatment at the state hospital serving the mentally disabled, the law enforcement agency shall only receive copies of the original records.

SEC. 2. No reimbursement shall be made from the State Mandates Claims Fund pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code for costs mandated by the state pursuant to this act. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Part 7 (commencing with Section 17500) and any other provisions of law.

CHAPTER 1037

An act to amend Section 91503 of the Government Code, relating to industrial development.

[Approved by Governor September 26, 1985. Filed with Secretary of State September 27, 1985]

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

SECTION 1. Section 91503 of the Government Code is amended to read:

91503. The property acquired pursuant to this article shall be suitable for, or shall evidence an obligation respecting, certain activities or uses. The activities or uses shall include one or more of the activities or uses described in subdivision (a) and, unless incidental to those activities or uses, shall not include any of the activities described in, and not excepted from, subdivision (b).

(a) (1) Industrial uses including, without limitation, assembling, fabricating, manufacturing, processing, or warehousing activities or motor carrier terminals with respect to any products of agriculture, forestry, mining, or manufacture, if these activities have demonstrated job creation or retention potential.

(2) Industrial park land acquisition and development activities undertaken on sites where one or more industrial users have permanently ceased operations resulting in a loss of employment, or construction of buildings and facilities of the types authorized in

paragraphs (1), (3), and (4) on an industrial park site or sites which have been prepared for use by means of an Urban Development Action Grant.

(3) Energy development, production, collection, conversion from one form of energy to another, storage, or conservation activities, or energy transmission, transportation, or conveyance as distinguished from distribution activities.

(4) Research and development activities relating to commerce or industry, including, without limitation, professional, administrative, and scientific office and laboratory activities or uses.

(5) Visitor serving commercial facilities or transient visitor accommodation facilities located in one of the following:

(A) A city with a population of less than 50,000 persons within a county with a population of no more than 600,000 persons.

(B) An unincorporated portion of a county which has a population of less than 200,000 persons within a county with a population of no more than 600,000 persons.

For purposes of this paragraph, "visitor serving commercial facilities or transient visitor accommodation facilities" shall include, but shall not be limited to, hotels, motels, restaurants, and recreational, and shopping facilities, the primary purpose of which is serving visitors.

(b) (1) Residential real property for family unit or other housing activities.

(2) Sports activities.

(3) Convention or trade show activities.

(4) Airport, dock, wharf, mass commuting, or parking activities, or storage or training activities related to any thereof.

(5) Sewage or solid waste disposal activities or electric energy or gas furnishing activities, except any such activities if the property acquired is suitable for one or more of the activities described in paragraph (2) or (3) of subdivision (a).

(6) Air or water pollution control activities.

(7) Water furnishing activities.

(8) Telephone or community television furnishing activities.

(9) Industrial park land acquisition and development activities, except as defined in paragraph (2) of subdivision (a).

(10) Any activities of persons qualifying as exempt persons under Section 501 of the Internal Revenue Code of 1954, as amended, undertaken by those persons, other than activities constituting an unrelated trade or business as described in Section 513 of that code.

SEC. 2. Section 91503 of the Government Code is amended to read:

91503. The property acquired pursuant to this article shall be suitable for, or shall evidence an obligation respecting, certain activities or uses. The activities or uses shall include one or more of the activities or uses described in subdivision (a) and, unless incidental to those activities or uses, shall not include any of the activities described in, and not excepted from, subdivision (b).

(a) (1) Industrial uses including, without limitation, assembling, fabricating, manufacturing, processing, or warehousing activities or motor carrier terminals with respect to any products of agriculture, forestry, mining, or manufacture, if these activities have demonstrated job creation or retention potential.

(2) Industrial park land acquisition and development activities undertaken on sites where one or more industrial users have permanently ceased operations resulting in a loss of employment, or construction of buildings and facilities of the types authorized in paragraphs (1), (3), and (4) on an industrial park site or sites which have been prepared for use by means of an Urban Development Action Grant.

(3) Energy development, production, collection, conversion from one form of energy to another, storage, or conservation activities, or energy transmission, transportation, or conveyance as distinguished from distribution activities.

(4) Research and development activities relating to commerce or industry, including, without limitation, professional, administrative, and scientific office and laboratory activities or uses.

(5) Visitor serving commercial facilities or transient visitor accommodation facilities located in one of the following:

(A) A city with a population of less than 50,000 persons within a county with a population of no more than 600,000 persons.

(B) An unincorporated portion of a county which has a population of less than 200,000 persons within a county with a population of no more than 600,000 persons.

For purposes of this paragraph, "visitor serving commercial facilities or transient visitor accommodation facilities" shall include, but shall not be limited to, hotels, motels, restaurants, and recreational, and shopping facilities, the primary purpose of which is serving visitors.

(6) Child day care centers providing nonmedical care to children under 18 years of age 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, provided that these centers are associated with or incidental to an allowable use for which financing is sought pursuant to this article.

(b) (1) Residential real property for family unit or other housing activities.

(2) Sports activities.

(3) Convention or trade show activities.

(4) Airport, dock, wharf, mass commuting, or parking activities, or storage or training activities related to any thereof.

(5) Sewage or solid waste disposal activities or electric energy or gas furnishing activities, except any such activities if the property acquired is suitable for one or more of the activities described in paragraph (2) or (3) of subdivision (a).

(6) Air or water pollution control activities.

(7) Water furnishing activities.

(8) Telephone or community television furnishing activities.

(9) Industrial park land acquisition and development activities, except as defined in paragraph (2) of subdivision (a).

(10) Any activities of persons qualifying as exempt persons under Section 501 of the Internal Revenue Code of 1954, as amended, undertaken by those persons, other than activities constituting an unrelated trade or business as described in Section 513 of that code.

SEC. 3. Section 2 of this bill incorporates amendments to Section 91503 of the Government Code proposed by both this bill and SB 566. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1986, (2) each bill amends Section 91503 of the Government Code, and (3) this bill is enacted after SB 566, in which case Section 91503 of the Government Code, as amended by SB 566, shall remain operative only until the operative date of this bill, at which time Section 2 of this bill shall become operative, and Section 1 of this bill shall not become operative.

CHAPTER 1038

An act to amend Sections 44063, 44064, 87061, and 87062 of the Education Code, relating to school employees.

[Approved by Governor September 26, 1985 Filed with Secretary of State September 27, 1985]

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

SECTION 1. Section 44063 of the Education Code is amended to read:

44063. If an employee of a school district, including a district having the merit system as outlined in Article 6 (commencing with Section 45240) of Chapter 5, employed in a position requiring certification qualifications is assigned to a position in the classified service of the same district, the employee shall retain all sickness and injury, sabbatical leave, and other rights and benefits. All seniority and tenure rights accumulated by the employee at the time of assignment to the position in the classified service shall be secured to the employee during the period of time he or she occupies a position in the classified service. The employee's return to certificated service at any time shall be treated as if there had not been an interruption in his or her certificated service.

SEC. 2. Section 44064 of the Education Code is amended to read:

44064. If an employee of a school district, including a district having the merit system as outlined in Article 6 (commencing with Section 45240) of Chapter 5, employed in a position in the classified service is assigned to a position in the same district requiring certification qualifications, the employee shall retain all sick leave,

vacation, and other rights and benefits accumulated by the employee at the time he or she is assigned to a position requiring certification qualifications. All seniority and permanency rights shall be secured to the employee during the period of time he or she occupies a position in the certificated service. The employee's return to the classified service at any time shall be treated as if there had not been an interruption in his or her classified service.

SEC. 3. Section 87061 of the Education Code is amended to read:

87061. If an employee of a community college district, including a district having the merit system as outlined in Article 3 (commencing with Section 88060) of Chapter 4, employed in a position requiring certification qualifications is assigned to a position in the classified service of the same district, the employee shall retain all sickness and injury, sabbatical leave, and other rights and benefits. All seniority and tenure rights accumulated by the employee at the time of assignment to the position in the classified service shall be secured to the employee during the period of time he or she occupies a position in the classified service. The employee's return to certificated service at any time shall be treated as if there had not been an interruption in his or her certificated service.

SEC. 4. Section 87062 of the Education Code is amended to read:

87062. If an employee of a community college district, including a district having the merit system as outlined in Article 3 (commencing with Section 88060) of Chapter 4, employed in a position in the classified service is assigned to a position in the same district requiring certification qualifications, the employee shall retain all sick leave, vacation, and other rights and benefits accumulated by the employee at the time he or she is assigned to a position requiring certification qualifications. All seniority and permanency rights shall be secured to the employee during the period of time he or she occupies a position in the certificated service. The employee's return to the classified service at any time shall be treated as if there had not been an interruption in his or her classified service.

SEC. 5. Reimbursement to local agencies and school districts for costs mandated by the state pursuant to this act shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code and, if the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), shall be made from the State Mandates Claims Fund.

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.

CHAPTER 1039

An act to add Chapter 10 (commencing with Section 57301) to Division 20 of the Food and Agricultural Code, relating to produce inspection.

[Approved by Governor September 26, 1985. Filed with Secretary of State September 27, 1985]

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

SECTION 1. Chapter 10 (commencing with Section 57301) is added to Division 20 of the Food and Agricultural Code, to read:

CHAPTER 10. PRIVATE PRODUCE INSPECTION

57301. The commissioner shall require any person, except a county, state, or federal inspection agency, who, for payment by a private party, reports upon the condition of lots of fresh fruits or vegetables offered for sale other than for processing to register with the commissioner. The commissioner shall maintain a registry of these persons which shows the name and business address, market or markets at which inspections are made, the products inspected, and additional matters that the commissioner requires. The commissioner shall forward this information to the director who shall maintain a central registry on a statewide basis. A produce inspector who is registered in one county where he or she does business may do business in any other county without registering in the other county if the commissioner in the other county is provided proof of registration.

57302. The board of supervisors may, pursuant to this chapter, establish a registration fee in an amount necessary to cover the actual costs of the commissioner for that registration.

57303. Each registered inspector shall maintain a copy of each written report of the date, lot description, volume, and condition of the commodity inspected. Condition shall include the grade or other criteria used to evaluate the product. If a report has been made orally, a written confirmation shall be prepared within 24 hours and retained in the same manner as a written report. Reports need not name the person to whom the advice was given, but the names shall be maintained so that they may be matched to the respective reports upon request of the commissioner. Reports shall be maintained for a period of not less than 90 days and shall be made available to the commissioner upon demand.

57304. If the commissioner or the director receives a complaint from an interested party that any report required to be kept by Section 57303 is materially inaccurate, the commissioner may investigate the matter and shall give a report of findings to all interested parties.

57305. The remedies or penalties in this chapter are cumulative to each other and to the remedies or penalties available under all other laws of this state.

57306. If the commissioner finds that a registered inspector has repeatedly given inaccurate information or failed to maintain required records, the commissioner may, after a hearing, cancel or suspend the registration.

57307. (a) Any person who violates this chapter shall be liable for a civil penalty not to exceed two thousand five hundred dollars ($2,500) for each violation, which shall be assessed and recovered in a civil action brought in the name of the people of the State of California by the Attorney General at the request of the director. Any funds recovered pursuant to this subdivision shall be deposited in the Department of Food and Agriculture Fund.

(b) An action may also be brought pursuant to this section by the district attorney at the request of the commissioner in the county in which the offense occurred. Any funds recovered pursuant to this subdivision shall be deposited in the general fund of the county.

57308. It is unlawful for any person to act as a registered inspector unless currently registered by the commissioner.

57309. It is unlawful for any person to misrepresent the quality of any commodity inspected or to fail to make and maintain the records required by the commissioner.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, and other costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1040

An act to amend Sections 76000 and 76005 of, and to add Section 76006 to, the Government Code, relating to courthouse construction.

[Approved by Governor September 26, 1985 Filed with Secretary of State September 27, 1985.]

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

SECTION 1. Section 76000 of the Government Code is amended to read:

76000. (a) In each county, provided that the board of supervisors has adopted a resolution stating that the provisions of this section and Section 76001, 76002, 76004, 76005, or 76006 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 76004 may limit the collection to the assessments specified in paragraph (2) and a resolution adopted pursuant to Section 76005 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 of the Penal Code, 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 76001, 76002, 76004, 76005, or 76006.

(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 76001, 76002, 76004, 76005, or 76006.

(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. 2. Section 76005 of the Government Code is amended to read:

76005. (a) Notwithstanding any other provision of law, to assist a county other than Los Angeles, Santa Clara, San Diego, 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, and, in Monterey County, the improvement of criminal justice automated information systems, and, in San Bernardino

County, the maintenance, operation, construction, reconstruction, or expansion of county juvenile justice rehabilitation facilities, the board of supervisors of a county other than Los Angeles, Santa Clara, San Diego, 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 76000 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 76000 in the fund.

(b) The fund moneys together with any interest earned thereon 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 together with any interest earned thereon shall be payable only for courtroom construction as authorized in subdivision (a); provided, that in Monterey County, for a five-year period, up to 50 percent of the moneys deposited each year in the Courthouse Temporary Construction Fund, but in no case exceeding a total of five hundred thousand dollars ($500,000) for the five-year period, may be payable for the improvement of criminal justice automated information systems upon the adoption of a resolution by the board of supervisors stating that such moneys used for automated information system improvement purposes are not required for the construction of courthouse buildings during the five-year period; and provided, that in San Bernardino County moneys deposited each year in the Courthouse Temporary Construction Fund may also be used for the maintenance, operation, construction, reconstruction, or expansion of county juvenile justice rehabilitation facilities.

(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. 3. Section 76006 is added to the Government Code, to read:

76006. (a) Notwithstanding any other provision of law, to assist the County of Santa Clara or the County of San Diego 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 the County of Santa Clara or the County of San Diego, respectively, operative upon the adoption of a resolution stating that the provisions of this section and the assessments provided for in Section 76000 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 pursuant to Section 76000 in the fund.

(b) In addition to observing the increased bail amounts as established by the court pursuant to paragraph (1) of subdivision (a) of Section 76000, 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 those payments in the fund.

(c) The fund moneys together with any interest earned thereon 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 together with any interest earned thereon shall be payable only for courtroom construction as authorized in subdivision (a).

(d) Deposits to the fund in accordance with subdivisions (a) and (b) 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.

CHAPTER 1041

An act to amend Section 10783 of the Revenue and Taxation Code, and to amend Sections 5101.6, 9105, 21458, 22507.8, 22511.5, 22511.7, 22511.8, 22511.9, and 22652 of, and to repeal Section 22511 of, the Vehicle Code, relating to vehicles.

[Approved by Governor September 26, 1985. Filed with Secretary of State September 27, 1985]

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

SECTION 1. Section 10783 of the Revenue and Taxation Code is amended to read:

10783. The license fee imposed by this part does not apply to a passenger vehicle, a motorcycle, or a commercial vehicle of less than 6,001 pounds unladen weight, unless the vehicle is used for transportation for hire, compensation, or profit, if the vehicle is owned by any disabled veteran, as described in Section 22511.9 of the Vehicle Code, or any veteran who is a Congressional Medal of Honor recipient.

The exemption granted by this section shall extend to not more than one vehicle owned by the veteran. The Department of Motor

Vehicles may require any disabled veteran applying for an exemption under this section to submit a certificate signed by a physician or surgeon substantiating the disability. The Department of Motor Vehicles may require any person applying for an exemption under this section by reason of receiving the Congressional Medal of Honor to submit satisfactory proof that he or she is a Congressional Medal of Honor recipient.

SEC. 2. Section 5101.6 of the Vehicle Code is amended to read:

5101.6. (a) Any person otherwise eligible under this article who is a Congressional Medal of Honor recipient may apply for special license plates for the vehicle under this article. The special plates assigned to the vehicle shall run in a separate numerical series and shall have inscribed on the plate the words "Congressional Medal of Honor" or "Medal of Honor." The department shall reserve and issue the special plates to all applicants providing the proof required by subdivision (b).

(b) The applicant shall, by satisfactory proof, show that the applicant is a Congressional Medal of Honor recipient.

(c) Special plates may be issued pursuant to subdivision (a) only for a vehicle owned or coowned by a Congressional Medal of Honor recipient. The special plates shall be surrendered to the department upon the decease of the Congressional Medal of Honor recipient, and any vehicle exempted from fees by Section 9105 of this code and by Section 10783 of the Revenue and Taxation Code shall lose the exemption.

(d) Sections 5106 and 5108 do not apply to this section.

SEC. 3. Section 9105 of the Vehicle Code is amended to read:

9105. The fees specified in this code, except fees for duplicate plates, certificates, or cards, need not be paid for any of the following vehicles, which are of a type subject to registration under this code, and which are not used for transportation for hire, compensation, or profit, when owned by any disabled veteran, as described in Section 22511.9, or any Congressional Medal of Honor recipient:

(a) Any passenger motor vehicle.

(b) Any motorcycle.

(c) Any commercial motor vehicle of less than 6,001 pounds unladen weight.

The exemption granted by this section shall not extend to more than one vehicle owned by any disabled veteran or Congressional Medal of Honor recipient. The department may require any disabled veteran applying for an exemption under this section to submit a certificate signed by a physician or surgeon substantiating the disability. Any person applying for an exemption under this section by reason of receiving the Congressional Medal of Honor shall submit satisfactory proof that he or she is a Congressional Medal of Honor recipient.

SEC. 4. Section 21458 of the Vehicle Code is amended to read:

21458. Whenever local authorities enact local parking regulations and indicate them by the use of paint upon curbs, the following colors

only shall be used, and the colors indicate as follows:

(a) Red indicates no stopping, standing, or parking, whether the vehicle is attended or unattended, except that a bus may stop in a red zone marked or signposted as a bus loading zone.

(b) Yellow indicates stopping only for the purpose of loading or unloading passengers or freight for the time as may be specified by local ordinance.

(c) White indicates stopping for either of the following purposes:

(1) Loading or unloading of passengers for the time as may be specified by local ordinance.

(2) Depositing mail in an adjacent mailbox.

(d) Green indicates time limit parking specified by local ordinance.

(e) Blue indicates parking limited exclusively to the vehicles of physically handicapped persons as described in Sections 22511.5 and 22511.9.

Regulations indicated as above provided shall be effective upon the days and during the hours or times as may be prescribed by local ordinances.

SEC. 5. Section 22507.8 of the Vehicle Code is amended to read:

22507.8. (a) It is unlawful for any person to park or leave standing any vehicle in a stall or space designated for physically handicapped persons pursuant to Section 22511.7 or 22511.8, unless the vehicle displays either a distinguishing license plate or a placard issued pursuant to Section 22511.5 or 22511.9.

(b) Subdivision (a) applies to all offstreet parking facilities owned or operated by the state, and to all offstreet parking facilities owned or operated by a local authority. Subdivision (a) also applies to any privately owned and maintained offstreet parking facility.

SEC. 6. Section 22511 of the Vehicle Code is repealed.

SEC. 7. Section 22511.5 of the Vehicle Code is amended to read:

22511.5. (a) A disabled person is any of the following:

(1) Any person who has lost, or has lost the use of, one or more lower extremities or both hands, or who has significant limitation in the use of lower extremities, or who has a diagnosed disease or disorder which substantially impairs or interferes with mobility, or who is so severely disabled as to be unable to move without the aid of an assistant device.

(2) Any person who is blind to the extent that the person's central visual acuity does not exceed 20/200 in the better eye, with corrective lenses, as measured by the Snellen test, or visual acuity that is greater than 20/200, but with a limitation in the field of vision such that the widest diameter of the visual field subtends an angle not greater than 20 degrees.

(3) Any person who suffers from lung disease to the extent that the person's forced (respiratory) expiratory volume for one second when measured by spirometry is less than one liter or the person's arterial oxygen tension (pO_2) is less than 60 mm/Hg on room air at rest.

(4) Any person who is impaired by cardiovascular disease to the extent that the person's functional limitations are classified in severity as class III or class IV according to standards accepted by the American Heart Association.

(b) A disabled person shall be allowed to park for unlimited periods in a restricted zone described in subdivision (e) of Section 21458. A disabled person shall be allowed to park for unlimited periods in parking zones restricted as to the length of time parking is permitted as indicated by a sign erected pursuant to a local ordinance. A disabled person shall be allowed to park in any metered parking space without being required to pay any parking meter fees. This section does not apply to those zones in which the stopping, parking, or standing of all vehicles is prohibited absolutely by state law or local ordinance or which are reserved for special types of vehicles.

(c) As a condition to this privilege, the vehicle shall display a distinguishing license plate which shall be issued for a vehicle registered to the disabled person, or a vehicle which is not registered to the disabled person, but which is used primarily to transport a disabled person and which would otherwise qualify for a distinguishing license plate if the vehicle were registered to the disabled person. The distinguishing license plate shall be issued without additional fees by the Department of Motor Vehicles pursuant to procedures adopted by the department.

(d) Any disabled person, or vehicle owner as provided in subdivision (c), may also apply to the Department of Motor Vehicles for the issuance of a distinguishing placard. The placard may be used in lieu of the distinguishing license plate for parking purposes described in subdivision (b) when displayed on the dashboard of a vehicle. It is the intent of the Legislature to hereby encourage the use of these distinguishing placards which provide law enforcement officers with a more readily recognizable symbol for distinguishing vehicles qualified for the parking privilege. The placard shall be the size and color determined by the Department of Motor Vehicles.

The Department of Motor Vehicles may establish procedures for the issuance and renewal of the placards. The placards shall have a fixed expiration date of June 30 every two years. Whenever any application for a placard is submitted to the Department of Motor Vehicles on or after January 1 of the year of expiration, the fee shall be for the current and subsequent renewal period. The first renewal of placards issued between July 1, 1985, and December 3, 1986, shall be on or before June 30, 1987.

The fee for an original application or renewal application shall be six dollars ($6).

As used in this section, "year" means the period between the inclusive dates of July 1 through June 30.

No disabled person is eligible for more than one placard at any time. Organizations and agencies involved in the transportation of disabled persons may apply for a placard for each vehicle used for the

purpose of transporting disabled persons.

(e) The Department of Motor Vehicles shall issue new placards to replace placards issued prior to July 1, 1985. The new placards shall be issued as soon as possible on or after July 1, 1985. All placards issued prior to July 1, 1985, shall expire October 1, 1985. The Department of Motor Vehicles may charge a fee sufficient to cover its actual costs for issuance of substitute placards.

(f) Prior to issuing a disabled person a distinguishing license plate or placard, the Department of Motor Vehicles may require an applicant to submit a certificate signed by a physician or surgeon substantiating the disability. However, the disability of a person who has lost, or has lost the use of, one or more lower extremities or both hands, or who has significant limitation in the use of lower extremities, may also be certified by a licensed chiropractor. The blindness of any person applying shall be certified by a licensed physician or surgeon who specializes in diseases of the eye or a licensed optometrist.

(g) A person who is temporarily disabled for a period of less than one year may apply for a placard as prescribed in subdivision (d).

(h) A disabled person shall be allowed to park a vehicle displaying a distinguishing disabled person license plate or placard issued by a foreign jurisdiction with the same parking privileges authorized in this code as a vehicle issued a distinguishing disabled person license plate or displaying a placard issued pursuant to subdivision (d) by the Department of Motor Vehicles.

SEC. 8. Section 22511.7 of the Vehicle Code is amended to read:

22511.7. In addition to Section 22511.8 for offstreet parking, a local authority may, by ordinance or resolution, designate parking spaces for the exclusive use of any vehicle which displays either a distinguishing license plate or a placard issued pursuant to Section 22511.5 or 22511.9. Whenever a local authority so designates a parking space, it shall be indicated by blue paint on the curb or edge of the paved portion of the street adjacent to the space. In addition to blue paint, the space may also be indicated by signs or other suitable means.

This section does not restrict the privilege granted to disabled persons by Section 22511.5 and to disabled veterans by Section 22511.9.

SEC. 9. Section 22511.8 of the Vehicle Code, as amended by Chapter 312 of the Statutes of 1985, is amended to read:

22511.8. (a) Any local authority, by ordinance or resolution, and any person in lawful possession of an offstreet parking facility may designate stalls or spaces in an offstreet parking facility owned or operated by the local authority or person for the exclusive use of any vehicle which displays either a distinguishing license plate or a placard issued pursuant to Section 22511.5 or 22511.9. The designation shall be made in either of the following ways:

(1) By posting immediately adjacent to, and visible from, each stall or space, a sign consisting of a profile view of a wheelchair with

occupant in white on a blue background.

(2) By outlining or painting the stall or space in blue and outlining on the ground in the stall or space in white or suitable contrasting color a profile view depicting a wheelchair with occupant.

(b) If posted in accordance with subdivision (d) or (e), the owner or person in lawful possession of a privately owned or operated offstreet parking facility, after notifying the police or sheriff's department, may cause the removal of a vehicle from a stall or space designated pursuant to subdivision (a) for physically handicapped persons in the facility to the nearest public garage unless a distinguishing license plate or placard issued pursuant to Section 22511.5 or 22511.9 is displayed on the vehicle.

(c) If posted in accordance with subdivision (d), the local authority owning or operating an offstreet parking facility, after notifying the police or sheriff's department, may cause the removal of a vehicle from a stall or space designated pursuant to subdivision (a) for physically handicapped persons in the facility to the nearest public garage unless the a distinguishing license plate or placard issued pursuant to Section 22511.5 or 22511.9 is displayed on the vehicle.

(d) The posting required for an offstreet parking facility owned or operated either privately or by a local authority shall consist of a sign not less than 17 by 22 inches in size with lettering not less than one inch in height which clearly and conspicuously states the following: "Unauthorized vehicles not displaying distinguishing placards or license plates issued for physically handicapped persons will be towed away at owner's expense. Towed vehicles may be reclaimed at

_____or by telephoning
(Address)

_____."
(Telephone number of local law enforcement agency)

The sign shall be posted in either of the following locations:

(1) Immediately adjacent to, and visible from, the stall or space.

(2) In a conspicuous place at each entrance to the offstreet parking facility.

(e) If the parking facility is privately owned and public parking is prohibited by the posting of a sign meeting the requirements of paragraph (1) of subdivision (a) of Section 22658, the requirements of subdivision (b) may be met by the posting of a sign immediately adjacent to, and visible from, each stall or space indicating that a vehicle not meeting the requirements of subdivision (a) will be removed at the owner's expense and containing the telephone number of the local traffic law enforcement agency.

(f) This section does not restrict the privilege granted to disabled persons by Section 22511.5 and to disabled veterans by Section 22511.9.

SEC. 10. Section 22511.9 of the Vehicle Code is amended to read:

22511.9. (a) A disabled veteran is a veteran who, as a result of injury or disease suffered while on active service with the armed forces of the United States:

(1) Has a disability which has been rated, by the United States Veterans Administration or the military service from which the veteran was discharged, at 100 percent due to a diagnosed disease or disorder which substantially impairs or interferes with mobility.

(2) Is so severely disabled as to be unable to move without the aid of an assistant device.

(3) Has lost, or has lost use of, two or more limbs, or one eye and any limb, or has suffered permanent blindness as defined in Section 19153 of the Welfare and Institutions Code.

(b) A disabled veteran shall be allowed to park for unlimited periods in a restricted zone described in subdivision (e) of Section 21458. A disabled veteran shall be allowed to park for unlimited periods in parking zones restricted as to the length of time parking is permitted as indicated by a sign erected pursuant to a local ordinance. A disabled veteran shall be allowed to park in any metered parking space without being required to pay any parking meter fees. This section does not apply to those zones in which the stopping, parking, or standing of all vehicles is prohibited absolutely by state law or local ordinance or which are reserved for special types of vehicles.

(c) As a condition to this privilege, the vehicle shall display a distinguishing license plate which shall be issued for a vehicle registered to the disabled veteran. The distinguishing license plate shall be issued without additional fees by the Department of Motor Vehicles pursuant to procedures adopted by the department.

(d) Any disabled veteran may also apply to the Department of Motor Vehicles for the issuance of a distinguishing placard issued pursuant to Section 22511.5. The placard may be used in lieu of the distinguishing license plate for parking purposes described in subdivision (b) when displayed on the dashboard of a vehicle. It is the intent of the Legislature to hereby encourage the use of these distinguishing placards which provide law enforcement officers with a more readily recognizable symbol for distinguishing vehicles qualified for the parking privilege.

(e) Prior to issuing a disabled veteran a distinguishing license plate or placard, the Department of Motor Vehicles may require an applicant to submit a certificate signed by a physician or surgeon substantiating the disability.

(f) No disabled veteran is eligible for more than one placard at any time.

(g) A disabled veteran shall be allowed to park a vehicle displaying a distinguishing disabled veteran license plate or placard issued by a foreign jurisdiction with the same parking privileges authorized in this code as a vehicle issued a distinguishing disabled veteran license plate or displaying a placard issued pursuant to subdivision (d) by the Department of Motor Vehicles.

SEC. 11. Section 22652 of the Vehicle Code is amended to read:

22652. Any peace officer, as 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 engaged in directing traffic or enforcing parking laws and regulations of a city or county, may remove any vehicle from a stall or space designated for physically handicapped persons pursuant to Section 22511.7 or 22511.8, located within the jurisdictional limits in which the officer or employee is authorized to act, if the vehicle is parked in violation of Section 22507.8 and if the police or sheriff's department or the Department of the California Highway Patrol has been notified.

In a privately or publicly owned or operated offstreet parking facility, this section applies only to those stalls and spaces if the posting requirements under subdivisions (a) and (d) of Section 22511.8 have been complied with and if the stalls or spaces are clearly signed or marked.

CHAPTER 1042

An act to add and repeal Sections 14005.3 and 14205 of the Elections Code, relating to elections.

[Approved by Governor September 26, 1985 Filed with Secretary of State September 27, 1985.]

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

SECTION 1. Section 14005.3 is added to the Elections Code, to read:

14005.3. In addition to the materials required by Section 14005, the clerk shall furnish signs of appropriate size and designation, and distribute them in sufficient quantities, so that, when posted, the voter will be able to locate the polling place and identify areas in which electioneering and other activities cited in Section 29470 are prohibited.

This section shall remain in effect until January 1, 1992, and as of that date is repealed.

SEC. 2. Section 14205 is added to the Elections Code, to read:

14205. The precinct officer shall post the signs required by Section 14005.3 so as to enable the voter to locate the polling place and identify areas in which electioneering and other activities cited in Section 29470 are prohibited. After the close of the polls, the precinct officer shall remove the signs and return them with the voted ballots and other election material.

This section shall remain in effect until January 1, 1992, and as of that date is repealed.

SEC. 3. Reimbursement to local agencies and school districts for costs mandated by the state pursuant to this act shall be made

pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code and, if the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), shall be made from the State Mandates Claims Fund.

CHAPTER 1043

An act to amend Sections 5253 and 12001 of, and to repeal Section 12004 of, the Unemployment Insurance Code, relating to employment programs.

[Approved by Governor September 26, 1985 Filed with Secretary of State September 27, 1985]

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

SECTION 1. Section 5253 of the Unemployment Insurance Code is amended to read:

5253. The board shall make a report to the Legislature on January 1 of each year on the number of jobs which have been created pursuant to this division, the number of employed, the cost to the state, and the number of persons who enter permanent employment not supported pursuant to this division.

SEC. 2. Section 12001 of the Unemployment Insurance Code is amended to read:

12001. (a) The State Personnel Board shall, within funds appropriated, carry out a Career Opportunities Development Program in public service by providing technical assistance to, and contracting with, cities, counties, units of state or local government, Indian tribes recognized by the Bureau of Indian Affairs, and any nonprofit employer organized for a public purpose.

(b) The State Personnel Board may develop rules and regulations to interpret and implement this division.

SEC. 3. Section 12004 of the Unemployment Insurance Code is repealed.

CHAPTER 1044

An act to amend Sections 11346.4, 11346.7, 11349, 11349.1, 11349.3, 11349.4, 11349.5, and 11349.6 of, and to add Section 11349.9 to, the Government Code, relating to administrative regulations.

[Approved by Governor September 26, 1985 Filed with Secretary of State September 27, 1985]

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

SECTION 1. Section 11346.4 of the Government Code is amended to read:

11346.4. (a) At least 45 days prior to the hearing or close of the public comment period on the adoption, amendment, or repeal of a regulation, notice of the proposed action shall be:

(1) Mailed to every person who has filed a request for notice of regulatory actions with the state agency.

(2) In cases in which the state agency is within a state department, mailed or delivered to the director of the department.

(3) Mailed to a representative number of small business enterprises or their representatives which have been identified as being affected by the proposed action.

(4) When appropriate in the judgment of the state agency, mailed to any person or group of persons whom the agency believes to be interested in the proposed action and published in the form and manner as the state agency shall prescribe.

(5) Published in the California Administrative Notice Register as prepared by the Office of Administrative Law.

(b) The effective period of a notice issued pursuant to this section shall not exceed one year from the date thereof. If the adoption, amendment, or repeal of a regulation proposed in the notice is not completed and transmitted to the office within the period of one year, a notice of the proposed action shall again be issued pursuant to the provisions of this article.

(c) Once the adoption, amendment, or repeal is completed and approved by the office, no further adoption, amendment or repeal to the noticed regulation shall be made without subsequent notice being given.

(d) The office may refuse to publish a notice submitted to it if the agency has failed to comply with the provisions of this article.

(e) The Office of Administrative Law shall make the California Administrative Notice Register available to the public and state agencies at a nominal cost which is consistent with a policy of encouraging the widest possible notice distribution to interested persons.

(f) The Office of State Printing shall provide the same priority for printing the California Administrative Notice Register as is provided for printing legislative publications.

(g) Where the form or manner of notice is prescribed by statute in any particular case, in addition to filing and mailing notice as required by this section, the notice shall be published, posted, mailed, filed or otherwise publicized as prescribed by that statute. The failure to mail notice to any person as provided in this section shall not invalidate any action taken by a state agency pursuant to this article. Other provisions of this article shall not apply to the publication of newspaper notices under this section.

SEC. 2. Section 11346.7 of the Government Code is amended to

read:

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

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

(1) A description of the public problem, administrative requirement, or other condition or circumstance the regulation is intended to address.

(2) A statement of the specific purpose of the regulation and the rationale for the determination by the agency that the regulation is reasonably necessary to carry out the purpose for which it is proposed.

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

(4) A description of any alternatives the agency has identified that would lessen any adverse impact on small businesses. It is not the intent of this subdivision to require the agency to artificially construct alternatives or to justify why it has not identified alternatives.

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

(1) An update of the information contained in the initial statement of reasons. If the update identifies any data or any technical, theoretical or empirical study, report, or similar document on which the agency is relying in proposing the adoption or amendment of a regulation which was not identified in the initial statement of reasons, or which was otherwise not identified or made available for public review prior to the close of the public comment period, the agency shall comply with the provisions of subdivision (d) of Section 11346.8.

(2) A determination as to whether the regulation imposes a mandate on local agencies or school districts. If the determination is that the regulation does contain a local mandate, the agency shall state whether the mandate is reimbursable pursuant to Part 7 (commencing with Section 17500) of Division 4. If the agency finds that the mandate is not reimbursable, it shall state the reasons for that finding.

(3) A summary of each objection or recommendation made regarding the specific adoption, amendment, or repeal proposed, together with an explanation of how the proposed action has been changed to accommodate each objection or recommendation, or the

reasons for making no change. This requirement applies only to objections or recommendations specifically directed at the agency's proposed action or to the procedures followed by the agency in proposing or adopting the action.

(4) An explanation setting forth the reasons for rejecting any proposed alternatives that would lessen the adverse economic impact on small businesses.

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

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

SEC. 3. Section 11349 of the Government Code is amended to read:

11349. The following definitions govern the interpretation of this chapter:

(a) "Necessity" means the record of the rulemaking proceeding demonstrates by substantial evidence the need for a regulation. For purposes of this standard, evidence includes, but is not limited to, facts, studies, and expert opinion.

(b) "Authority" means the provision of law which permits or obligates the agency to adopt, amend, or repeal a regulation.

(c) "Clarity" means written or displayed so that the meaning of regulations will be easily understood by those persons directly affected by them.

(d) "Consistency" means being in harmony with, and not in conflict with or contradictory to, existing statutes, court decisions, or other provisions of law.

(e) "Reference" means the statute, court decision, or other provision of law which the agency implements, interprets, or makes specific by adopting, amending, or repealing a regulation.

(f) "Nonduplication" means that a regulation does not serve the same purpose as a state or federal statute or another regulation. This standard requires that an agency proposing to amend or adopt a

regulation must identify any state or federal statute or regulation which is overlapped or duplicated by the proposed regulation and justify any overlap or duplication. This standard is not intended to prohibit state agencies from printing relevant portions of enabling legislation in regulations when the duplication is necessary to satisfy the clarity standard in paragraph (3) of subdivision (a) of Section 11349.1. This standard is intended to prevent the indiscriminate incorporation of statutory language in a regulation.

SEC. 4. Section 11349.1 of the Government Code is amended to read:

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

(1) Necessity.
(2) Authority.
(3) Clarity.
(4) Consistency.
(5) Reference.
(6) Nonduplication.

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

(b) The Office of Administrative Law shall adopt regulations governing the procedures it uses in reviewing regulations submitted to it. The regulations shall provide for an orderly review and shall specify the methods, standards, presumptions, and principles the office uses, and the limitations it observes, in reviewing regulations to establish compliance with the standards specified in subdivision (a). The regulations adopted by the office shall ensure that it does not substitute its judgment for that of the rulemaking agency as expressed in the substantive content of adopted regulations.

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

(1) The adopting agency has not prepared the estimate required by paragraph (6) of subdivision (a) of Section 11346.5 and has not included the data used and calculations made and the summary report of the estimate in the file of the rulemaking.

(2) The adopting agency has prepared the estimate required by paragraph (6) of subdivision (a) of Section 11346.5, the estimate indicates that the regulation will result in a cost to local agencies or school districts that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4, and the adopting agency fails to do any of the following:

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

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

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

(D) Attach a letter or other documentation from the Department of Finance which states that the Department of Finance has authorized the augmentation of the amount available for expenditure under the agency's appropriation in the Budget Act which is for reimbursement pursuant to Part 7 (commencing with Section 17500) of Division 4 to local agencies or school districts from the unencumbered balances of other appropriations in the Budget Act and that this augmentation is sufficient to reimburse local agencies or school districts for their costs mandated by the regulation.

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

SEC. 5. Section 11349.3 of the Government Code is amended to read:

11349.3. (a) The Office of Administrative Law shall either approve a regulation submitted to it for review and transmit it to the Secretary of State for filing or disapprove it within 30 calendar days after the regulation has been submitted to the office for review. If the office fails to act within 30 days, the regulation shall be deemed to have been approved and the office shall transmit it to the Secretary of State for filing.

(b) If the Office of Administrative Law disapproves a regulation, it shall return it to the adopting agency within the 30-day period specified in subdivision (a) accompanied by a notice specifying the reasons for disapproval. Within seven calendar days of the issuance of the notice, the office shall provide the adopting agency with a written opinion detailing the reasons for disapproval. The office shall also publish its disapproval and the reasons therefor in the California Administrative Notice Register. No regulation shall be disapproved except for failure to comply with the standards set forth in Section 11349.1 or for failure to comply with the provisions of this chapter.

(c) If an agency determines, on its own initiative, that a regulation submitted pursuant to subdivision (a) should be returned by the Office of Administrative Law prior to completion of the office's review, it may request the return of the regulation. All requests for the return of a regulation shall be memorialized in writing by the submitting agency no later than one week following the request. The written request shall be published by the office in the California

Administrative Notice Register. Any regulation returned pursuant to this subdivision shall be resubmitted to the Office of Administrative Law for review within the one-year period specified in subdivision (b) of Section 11346.4 or shall comply with Article 5 (commencing with Section 11346) prior to resubmission.

(d) The Office of Administrative Law shall not initiate the return of a regulation pursuant to subdivision (c) as an alternative to disapproval pursuant to subdivision (b).

SEC. 6. Section 11349.4 of the Government Code is amended to read:

11349.4. (a) A regulation returned to an agency because of failure to meet the standards of Section 11349.1, because of an agency's failure to comply with this chapter may be rewritten and resubmitted within 120 days of the agency's receipt of the written opinion required by subdivision (b) of Section 11349.3 without complying with the notice and public hearing requirements of Sections 11346.4, 11346.5, and 11346.8 unless the substantive provisions of the regulation have been significantly changed. If the regulation has been significantly changed or was not submitted within 120 days of receipt of the written opinion, the agency shall comply with Article 5 (commencing with Section 11346) and readopt the regulation. The director of the office may, upon a showing of good cause, grant an extension to the 120-day time period specified in this subdivision.

(b) Upon resubmission of a disapproved regulation to the office pursuant to subdivision (a), the office shall only review the resubmitted regulation for those reasons expressly identified in the written opinion required by subdivision (b) of Section 11349.3, or for those issues arising as a result of a substantial change to a provision of the resubmitted regulation or as a result of intervening statutory changes or intervening court orders or decisions.

(c) The office shall expedite the review of a regulation submitted without significant substantive change.

SEC. 7. Section 11349.5 of the Government Code is amended to read:

11349.5. (a) To initiate a review of a decision by the Office of Administrative Law, the agency shall file a written Request for Review with the Governor's Legal Affairs Secretary within 10 days of receipt of the written opinion provided by the office pursuant to subdivision (b) of Section 11349.3. The Request for Review shall include a complete statement as to why the agency believes the decision is incorrect and should be overruled. Along with the Request for Review, the agency shall submit all of the following:

(1) The office's written opinion detailing the reasons for disapproval required by subdivision (b) of Section 11349.3.

(2) Copies of all regulations, notices, statements, and other documents which were submitted to the Office of Administrative Law.

(b) A copy of the agency's Request for Review shall be delivered

to the Office of Administrative Law on the same day it is delivered to the Governor's office. The office shall file its written response to the agency's request with the Governor's Legal Affairs Secretary within 10 days and deliver a copy of its response to the agency on the same day it is delivered to the Governor's office.

(c) The Governor's office shall provide the requesting agency and the office with a written decision within 15 days of receipt of the response by the office to the agency's Request for Review. Upon receipt of the decision, the office shall publish in the Administrative Register the agency's Request for Review, the office's response thereto, and the decision of the Governor's office.

(d) The time requirements set by subdivisions (a) and (b) may be shortened by the Governor's office for good cause.

(e) The Governor may overrule the decision of the office disapproving a proposed regulation, an order repealing an emergency regulation adopted pursuant to subdivision (b) of Section 11346.1, a decision refusing to allow the readoption of an emergency regulation pursuant to Section 11346.1, or a determination to repeal pursuant to subdivision (k) of Section 11349.7. In that event, the office shall immediately transmit the regulation to the Secretary of State for filing.

(f) Upon overruling the decision of the office, the Governor shall immediately transmit to the Rules Committees of both houses of the Legislature a statement of his or her reasons for overruling the decision of the office, along with copies of the adopting agency's initial statement of reasons issued pursuant to Section 11346.7 and the office's statement regarding the disapproval of a regulation issued pursuant to subdivision (b) of Section 11349.3. The Governor's action and the reasons therefor shall be published in the California Administrative Notice Register.

SEC. 8. Section 11349.6 of the Government Code is amended to read:

11349.6. (a) In the event the adopting agency has complied with Sections 11346.4 to 11346.8, inclusive, prior to the adoption of the regulation as an emergency, the office shall approve or disapprove the regulation in accordance with this article.

(b) Emergency regulations adopted pursuant to subdivision (b) of Section 11346.1 shall be reviewed by the office within 10 calendar days after their submittal to the office. The office shall not file the emergency regulations with the Secretary of State if it determines that the regulation is not necessary for the immediate preservation of the public peace, health and safety, or general welfare, or if it determines that the regulation fails to meet the standards set forth in Section 11349.1, or if it determines the agency failed to comply with subdivisions (b) and (c) of Section 11346.1. The office shall publish notice of the filing of approved emergency regulations, or the reasons for not filing the regulations, in the California Administrative Notice Register.

(c) If the office considers any information not submitted to it by

the rulemaking agency when determining whether to file emergency regulations, the office shall provide the rulemaking agency with an opportunity to rebut or comment upon that information.

(d) Within 30 days of the filing of a certificate of compliance, the office shall review the regulation and hearing record and approve or order the repeal of an emergency regulation if it determines that the regulation fails to meet the standards set forth in Section 11349.1, or if it determines that the agency failed to comply with the provisions of this chapter.

SEC. 9. Section 11349.9 is added to the Government Code, to read:

11349.9. Every document, other than a notice of proposed rulemaking action, required to be published in the California Administrative Notice Register by this chapter, shall be published in the first edition of the notice register following the date of the document.

CHAPTER 1045

An act to add Section 6359.7 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 26, 1985 Filed with Secretary of State September 27, 1985]

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

SECTION 1. Section 6359.7 is added to the Revenue and Taxation Code, to read:

6359.7. As incidental to the exemption provided for in Section 6359, there are exempted from the taxes imposed by this part the gross receipts from the sale of and the storage, use, or other consumption in this state of ice or dry ice used or employed in packing and shipping or transporting food products for human consumption when the food products are shipped or transported in intrastate, interstate, or foreign commerce by common carriers, contract carriers, or proprietary carriers.

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 pursuant to the 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. However, the provisions of this act shall become operative on January 1, 1986.

CHAPTER 1046

An act relating to veterans, and making an appropriation therefor.

[Approved by Governor September 26, 1985 Filed with Secretary of State September 27, 1985.]

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

SECTION 1. The Legislature finds and declares that the study of the feasibility of establishing a second Veterans' Home of California in southern California requested by Assembly Concurrent Resolution No. 43 of the 1983–84 Regular Session (Res. Ch. 93, Stats. 1983) concluded that the facility is needed and that several feasible alternatives exist for its establishment.

It is, therefore, the intent of the Legislature, in enacting this act, to require the true costs of each of these alternatives to be established in pursuance of a sound public policy to determine in advance the implications and ramifications of each of these alternatives.

SEC. 2. The Department of Veterans Affairs shall prepare and submit to the Legislature on or before August 15, 1986, an estimate of the costs under each of the alternatives presented for the establishment in southern California of a second Veterans' Home of California in the report to the Legislature prepared pursuant to Assembly Concurrent Resolution No. 43 of the 1983–84 Regular Session (Res. Ch. 93, Stats. 1983) together with an implementation plan which considers each of those alternatives. The department may contract for any needed services with the Department of General Services or other state agency, and every state agency shall cooperate with the department in this regard.

SEC. 3. The sum of three hundred thousand dollars ($300,000) is hereby appropriated from the General Fund to the Department of Veterans Affairs for purposes of Section 2 of this act.

CHAPTER 1047

An act to amend Sections 1791 and 1794.4 of, and to add Section 1794.41 to, the Civil Code, relating to warranties.

[Approved by Governor September 26, 1985 Filed with Secretary of State September 27, 1985]

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

SECTION 1. Section 1791 of the Civil Code is amended to read:

1791. As used in this chapter:

(a) "Consumer goods" means any new product or part thereof that is used, bought, or leased for use primarily for personal, family,

or household purposes, except for clothing and consumables. "Consumer goods" shall include new and used assistive devices sold at retail.

(b) "Buyer" or "retail buyer" means any individual who buys consumer goods from a person engaged in the business of manufacturing, distributing, or selling such goods at retail. As used in this subdivision, "person" means any individual, partnership, corporation, association, or other legal entity which engages in any such business.

(c) "Clothing" means any wearing apparel, worn for any purpose, including under and outer garments, shoes, and accessories composed primarily of woven material, natural or synthetic yarn, fiber, or leather or similar fabric.

(d) "Consumables" means any product which is intended for consumption by individuals, or use by individuals for purposes of personal care or in the performance of services ordinarily rendered within the household, and which usually is consumed or expended in the course of such consumption or use.

(e) "Distributor" means any individual, partnership, corporation, association, or other legal relationship which stands between the manufacturer and the retail seller in purchases, consignments, or contracts for sale of consumer goods.

(f) "Independent repair or service facility" or "independent service dealer" means any individual, partnership, corporation, association, or other legal entity, not an employee or subsidiary of a manufacturer or distributor, which engages in the business of servicing and repairing consumer goods.

(g) "Lease" means any contract for the lease or bailment for the use of consumer goods by an individual, for a term exceeding four months, primarily for personal, family, or household purposes, whether or not it is agreed that the lessee bears the risk of the consumer goods' depreciation.

(h) "Lessee" means an individual who leases consumer goods under a lease.

(i) "Lessor" means a person who regularly leases consumer goods under a lease.

(j) "Manufacturer" means any individual, partnership, corporation, association, or other legal relationship which manufactures, assembles, or produces consumer goods.

(k) "Place of business" means, for the purposes of any retail seller that sells consumer goods by catalog or mail order, the distribution point for such goods.

(*l*) "Retail seller," "seller," or "retailer" means any individual, partnership, corporation, association, or other legal relationship which engages in the business of selling or leasing consumer goods to retail buyers.

(m) "Return to the retail seller" means, for the purposes of any retail seller that sells consumer goods by catalog or mail order, the retail seller's place of business, as defined in subdivision (k).

(n) "Sale" means (1) the passing of title from the seller to the buyer for a price, or (2) a consignment for sale.

(o) "Service contract" means a contract in writing to perform, over a fixed period of time or for a specified duration, services relating to the maintenance or repair of a consumer product, except that this term does not include a policy of automobile insurance, as defined in Section 116 of the Insurance Code.

(p) "Assistive device" means any instrument, apparatus, or contrivance, including any component or part thereof or accessory thereto, which is used or intended to be used, to assist a physically disabled person in the mitigation or treatment of an injury or disease or to assist or affect or replace the structure or any function of the body of a physically disabled person, except that this term does not include prescriptive lenses and other ophthalmic goods unless they are sold or dispensed to a blind person, as defined in Section 19153 of the Welfare and Institutions Code and unless they are intended to assist the limited vision of the person so disabled.

(q) "Catalogue or similar sale" means a sale in which neither the seller nor any employee or agent of the seller nor any person related to the seller nor any person with a financial interest in the sale participates in the diagnosis of the buyer's condition or in the selection or fitting of the device.

SEC. 2. Section 1794.4 of the Civil Code is amended to read:

1794.4. Nothing in this chapter shall be construed to prevent the sale of a service contract to the buyer in addition to or in lieu of an express warranty if that contract fully and conspicuously discloses in simple and readily understood language the terms, conditions, and exclusions of that contract.

SEC. 3. Section 1794.41 is added to the Civil Code, to read:

1794.41. No service contract covering any motor vehicle purchased for use in this state may be offered for sale or sold unless all of the following elements exist:

(a) The contract shall contain the disclosures specified in Section 1794.4 and shall disclose in the manner described in that section the buyer's cancellation and refund rights provided by this section.

(b) The contract shall be available for inspection by the buyer prior to purchase and either the contract, or a brochure which specifically describes the terms, conditions, and exclusions of the contract, and the provisions of this section relating to contract delivery, cancellation, and refund, shall be delivered to the buyer at or before the time of purchase of the contract. Within 60 days after the date of purchase, the contract itself shall be delivered to the buyer.

(c) The contract shall be cancelable by the purchaser under the following conditions:

(1) Unless the contract provides for a longer period, within the first 60 days after receipt of the contract, or within the first 30 days after receipt of the contract with respect to a used motor vehicle without manufacturer warranties, the full amount paid shall be

refunded by the seller to the purchaser if the purchaser provides a written notice of cancellation to the person specified in the contract, and if no claims have been made against the contract. If a claim has been made against the contract within the first 60 days after receipt of the contract, or within the first 30 days after receipt of the contract with respect to a used motor vehicle without manufacturer warranties, a pro rata refund, based on either elapsed time or mileage, at the seller's option as indicated in the contract, shall be made by the seller to the purchaser if the purchaser provides a written notice of cancellation to the person specified in the contract.

(2) Unless the contract provides for a longer period for obtaining a full refund, after the first 60 days after receipt of the contract, or after the first 30 days after receipt of the contract with respect to a used motor vehicle without manufacturer warranties, a pro rata refund, based on either elapsed time or mileage, at the seller's option as indicated in the contract, shall be made by the seller to the purchaser if the purchaser provides a written notice of cancellation to the person specified in the contract. In addition, the seller may assess a cancellation or administrative fee, not to exceed twenty-five dollars ($25).

(3) If the contract was financed with a vehicle purchase, the seller may make the refund payable to the purchaser, the lender of record, or both.

CHAPTER 1048

An act to amend Section 33216 of, and to add Sections 33203.1 and 33207.1 to, the Public Resources Code, and to amend and supplement the Budget Act of 1985 by adding Item 3810-302-036 thereto, relating to the Santa Monica Mountains Conservancy, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 26, 1985 Filed with Secretary of State September 27, 1985.]

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

SECTION 1. Section 33203.1 is added to the Public Resources Code, to read:

33203.1. Notwithstanding Section 33203 or any other provision of this division, the executive director of the conservancy shall give notice of any proposed acquisition of real property, or of any interest in real property, by eminent domain to the city council of the city in which the property is located, or to the board of supervisors of the county in which the property is located if it is in an unincorporated area, at least 45 days prior to the conservancy requesting any action by the State Public Works Board pursuant to Section 15854 of the

Government Code. If the city council or board of supervisors disapproves of the proposed action, the conservancy shall hold a noticed public hearing on the objections to the use of eminent domain prior to any vote recommending that action by the State Public Works Board.

SEC. 2. Section 33207.1 is added to the Public Resources Code, to read:

33207.1. (a) The conservancy shall, upon the request of a city or county, waive subdivision (b) of Section 33207 if it finds any of the following:

(1) The property is shown as commercial or manufacturing on the general plan, area plan, or local coastal program of the city or county having jurisdiction, whichever is applicable, on the date of enactment of this section at the 1985–86 Regular Session of the Legislature.

(2) The property is within the unincorporated area of a county with a population exceeding 4,000,000 and is to be used for affordable housing, as determined in paragraph (1) of subdivision (d) of Section 52020 of the Health and Safety Code.

(b) Nothing in this division requires any local agency to declare any property surplus.

SEC. 3. Section 33216 of the Public Resources Code is amended to read:

33216. This division shall remain in effect only until July 1, 1990, and as of that date is repealed, unless a later enacted statute, which is enacted before July 1, 1990, deletes or extends that date.

SEC. 4. The Assembly Committee on Natural Resources and the Senate Committee on Natural Resources and Wildlife may hold joint hearings during the first year of the 1987–88 Regular Session of the Legislature, with notice and full opportunity for public participation by concerned landowners and state, local, and federal agencies. The committees may make findings and recommendations regarding the achievements of the Santa Monica Mountains Conservancy, and for any necessary amendments to the Santa Monica Mountains Comprehensive Plan or the Santa Monica Mountains Conservancy Act (Division 23 (commencing with Section 33000) of the Public Resources Code), or for changes in land acquisition procedures of the Santa Monica Mountains Conservancy. The committees may report their findings and recommendations to the Legislature.

SEC. 5. Item 3810-302-036 is added to the Budget Act of 1985, to read:

3810-302-036—For capital outlay and local assistance, Santa Monica Mountains Conservancy, payable from the Special Account for Capital Outlay		3,000,000
Schedule:		
(1) 20.10.015—Appraisals, project planning and design	15,000	
(2) 20.10.115—Lower Zuma Canyon—		

Acquisition 2,985,000

Provisions:

1. Notwithstanding any other provision of law, if the National Park Service has not, within three years from date of acquisition, reimbursed the appraised market value of the property acquired in category (2), pursuant to Section 33204 of the Public Resources Code, the property shall be sold for fair market value by the Department of General Services, pursuant to Section 33205 of the Public Resources Code. Notwithstanding Section 11011 of the Government Code and Section 33205 of the Public Resources Code, the net proceeds from any property sold, or any reimbursement made, of funds appropriated in this item shall be deposited in the Special Account for Capital Outlay.
2. Funds in excess of the amount appropriated in this item that are necessary to complete this acquisition shall be provided from the funds appropriated to the conservancy in Item 3810-301-722 and property acquired using these funds shall not be subject to the resale requirement in Provision 1. Funds from the sale of property or reimbursements made pursuant to Provision 1 shall be used to reimburse Item 3810-301-722 to the extent that those funds are advanced for this acquisition, and upon reimbursement, the funds advanced from Item 3810-301-722 shall be available without regard to fiscal years for the purposes originally appropriated.

SEC. 6. Sections 1 to 4, inclusive, of this act shall become operative on January 1, 1986.

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 that the Lower Zuma Canyon acquisition may be carried out at the earliest opportunity, it is necessary that this act take effect immediately.

CHAPTER 1049

An act to repeal and add Article 3.4 (commencing with Section 5038) of Chapter 1 of Division 5 of the Public Resources Code, relating to the state park system.

[Approved by Governor September 26, 1985. Filed with Secretary of State September 27, 1985.]

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

SECTION 1. Article 3.4 (commencing with Section 5038) of Chapter 1 of Division 5 of the Public Resources Code is repealed.

SEC. 2. Article 3.4 (commencing with Section 5038) is added to Chapter 1 of Division 5 of the Public Resources Code, to read:

Article 3.4. El Pueblo de Los Angeles State Historic Park

5038. (a) It is hereby declared to be the policy of the State of California to establish and preserve, as a unique historical and cultural resource for the people of the state, the Mexican and early California cultural and interpretive traditions and heritage of El Pueblo de Los Angeles, as well as to promote the restoration and preservation of the landmarks and buildings of the El Pueblo de Los Angeles State Historic Park. This policy is to be guided by the general plan for the park and implemented in accordance with the historical structures reports on the park approved by the state.

(b) The Legislature recognizes that the existing concessionaires of Olvera Street have made historically significant contributions and that they represent a unique human and cultural resource as stipulated in the park's general plan. Therefore, it is the purpose of this article to develop a procedure which takes into consideration the need for competition in granting concessions as well as the long-term contributions on the part of, and the benefits that may be received in the future by retaining, existing concessionaires.

5038.1. The parties to the joint powers agreement of April 1, 1974, and to subsequent amendments to the agreement regarding the El Pueblo de Los Angeles State Historic Park, being the City of Los Angeles, the County of Los Angeles, and the state through the Department of Parks and Recreation, shall jointly develop a viable procedure and enter into an agreement for the awarding of concessions which would preserve and further the cultural continuity and physical integrity of the Olvera Street portion of the park. In developing the procedure, the parties shall take into consideration the need for competition in granting concessions with the long-term contributions on the part of, and the benefits to be received in the future by retaining, existing concessionaires.

5038.2. (a) Notwithstanding any other provision of this chapter or any other provision of law, the length of the term of any

concession contract or approval within the El Pueblo de Los Angeles State Historic Park in effect on the effective date of this section shall, at the request of the concessionaire, be extended by the department or its designee until January 1, 1987. Any contract extended pursuant to this subdivision shall be renegotiated, if necessary, to ensure that the rental rates in the contract on January 1, 1986, accurately reflect current commercial rental market rates.

(b) The Director of Parks and Recreation may extend the term of any concession contracts extended pursuant to subdivision (a) for an additional term up to January 1, 1988, upon the same terms and conditions provided in subdivision (a).

(c) Notwithstanding any provision of this chapter or any provision of law except subdivisions (b), (c), and (d) of Section 5080.20, if applicable, any concession contract or approval extended or renegotiated pursuant to subdivision (a) or (b) may be superseded by the agreement to implement the procedure specified in Section 5038.1, when that agreement is executed and approved by the state.

5038.3. "Concession," as used in this article, does not include those premises at El Pueblo de Los Angeles State Historic Park which are primarily rented and used for offices, banking, or storage.

SEC. 3. Reimbursement to local agencies and school districts for costs mandated by the state pursuant to this act shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code and, if the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), shall be made from the State Mandates Claims Fund.

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 1050

An act to amend Section 4851 of the Labor Code, relating to workers' compensation.

[Approved by Governor September 26, 1985. Filed with Secretary of State September 27, 1985]

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

SECTION 1. Section 4851 of the Labor Code is amended to read:

4851. The governing body of any city, county, or city and county, in addition to anyone else properly entitled, including the Public Employees' Retirement System, may request the appeals board to determine in any case, and the appeals board shall determine, whether or not the disability referred to in Section 4850 arose out of

and in the course of duty. The appeals board shall also, in any disputed case, determine when the disability commenced and ceased, and the amount of benefits provided by this division to which the employee is entitled during the period of the disability. The appeals board shall have jurisdiction to award and enforce payment of these benefits pursuant to Part 4 (commencing with Section 5300).

CHAPTER 1051

An act to amend Sections 44477, 44478, 44479, 52134, and 52178.3 of, and to add Sections 44478.5 and 52178.4 to, the Education Code, relating to schools.

[Approved by Governor September 26, 1985. Filed with Secretary of State September 27, 1985]

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

SECTION 1. Section 44477 of the Education Code is amended to read:

44477. (a) The commission shall grant a certificate of competence as a language development specialist to any teacher in kindergarten to grade 12, inclusive, who meets the competency standards specified in this section. The commission shall certify as a language development specialist any individual who:

(1) Demonstrates the competencies specified in subdivision (b).

(2) Holds a valid California teaching credential.

(3) Meets the other requirements for a credential established by the commission.

(b) The commission shall establish language development competencies which shall include, but need not be limited to, all of the following:

(1) Demonstrated knowledge of first and second language acquisition theories and teaching strategies, including knowledge of the elements of linguistics which apply to language learning and teaching.

(2) Demonstrated competency in teaching the English language in various educational settings.

(3) A minimum of one year of formal college level coursework in a foreign language, or its equivalent.

(4) Demonstrated knowledge of techniques to develop and reinforce language acquisition, as evidenced in a practicum.

(5) Demonstrated knowledge in the evaluation of appropriate instructional materials.

(6) Demonstrated knowledge of the purposes, limitations, and administration of language proficiency and achievement tests, including nonverbal and informal assessment techniques.

(7) Demonstrated knowledge of existing pupil identification,

assessment, and language reclassification requirements.

(8) Demonstrated knowledge of the historical and contemporary status of minority groups in California.

(9) Demonstrated knowledge of and respect for the cultural and language needs of pupils.

(10) Demonstrated knowledge of the interrelationships between bilingual education and English-to-speakers of other languages methods and theories.

SEC. 2. Section 44478 of the Education Code is amended to read:

44478. (a) A teacher in kindergarten to grade 12, inclusive, who holds a valid California teaching credential may demonstrate the competencies required by Section 44477 by either of the following:

(1) Successfully completing an approved college or university training program and passing the approved state examination.

(2) Having the teaching experience set forth in subdivision (c) and passing the approved state examination.

(b) A college or university training program shall consist of not less than 24 approved semester units, or quarter unit equivalents, which shall include, but need not be limited to, an emphasis on the teaching of pupils of limited-English proficiency in accordance with the standards for approval established by the commission, including the following:

(1) The structure and role of language.

(2) Psychosocial and cultural factors in language acquisition.

(3) Theories and methods of bilingual education.

(4) Analysis of the English language for teaching purposes.

(5) Theories and methods of teaching English to persons who speak other languages.

(6) Testing, diagnosis, language assessment, and evaluation.

(7) Materials for use in classes for pupils of limited-English proficiency.

(8) The practicum in teaching English to persons who speak other languages. In adopting coursework standards, the commission shall relate the coursework requirements to the competencies established pursuant to subdivision (b) of Section 44477.

(c) Persons holding a valid California teaching credential may make direct application to the commission to take the state examination if they have, at a minimum, either of the following:

(1) Two years of experience in a teaching assignment or its equivalent if the major part of the assignment was spent in the provision of instruction to pupils of limited-English proficiency.

(2) One year of full-time teaching experience with pupils of limited-English proficiency, and the possession of a certificate or degree in English for Speakers of Other Languages (ESOL).

(3) A master's degree or higher degree in English for Speakers of Other Languages, or a related field, as specified by the commission.

(d) In order to demonstrate his or her competency under subdivision (b) or (c), a teacher shall take and pass the state examination for a language development specialist.

(e) Teachers meeting the qualifications prescribed by paragraph (1) or (2) of subdivision (c) may be authorized by the employing school district to serve as temporary language development specialists during the initial year of the administration of the state examination for a language development specialist certificate by the Commission on Teacher Credentialing. Teachers authorized under this subdivision may continue to serve as temporary language development specialists until July 1, 1987, the scheduled sunset date for bilingual education programs prescribed by Section 62000, or until any prescribed earlier date for the sunset of those programs if they take the state examination for a language development specialist certificate during its initial year of administration. Nothing in this section shall be construed, however, to permit these teachers to continue to serve as language development specialists in subsequent school years unless they have passed the state examination, except that the State Board of Education may authorize one additional year of service upon a demonstration of extenuating circumstances.

SEC. 3. Section 44478.5 is added to the Education Code, to read:

44478.5. Teachers providing instruction in secondary level language development programs, as defined in subdivision (d) of Section 52163, who were authorized to serve as provisional language development specialists and who passed the culture and methodology components for the bilingual-crosscultural certificate of competence prior to January 1, 1985, may continue to provide instruction in those programs as long as they are employed by the same school district for which they were originally designated as a provisional language development specialist.

SEC. 4. Section 44479 of the Education Code is amended to read:

44479. (a) The commission shall, on or before March 1, 1985, develop a uniform state examination, with appropriate variations, which provides a method by which persons holding a valid California teaching credential may demonstrate their competence as a language development specialist. The first administration of the test shall take place no later than April 15, 1985.

(b) The uniform state examination for a language development specialist shall, at a minimum, consist of the following:

(1) A written examination including both essay and objective questions.

(2) An evaluation of an ESOL teaching situation.

(c) The commission shall develop a uniform state examination and the variations, procedures, and contents thereof after consultation with organizations serving pupils of limited-English proficiency. The uniform state examination, and the variations thereof, shall be approved by the commission. State Department of Education personnel who are familiar with bilingual education and language development, researchers, linguists, bilingual educators, and ESOL practitioners shall be consulted in the preparation of the examination contents and procedures. Costs incurred for the

participation of these participants in the development of the state examination shall be borne by their respective agencies.

SEC. 5. Section 52134 of the Education Code is amended to read:

52134. (a) The Commission on Teacher Credentialing shall issue certificates of language development specialist competence authorizing persons meeting the requirements of Article 3.5 (commencing with Section 44475) of Chapter 3 of Part 25 to provide instruction in impacted language programs. The certificates shall authorize the holders to provide English language development instruction and subject content instruction as follows:

(1) To pupils in impacted language programs in kindergarten and grades 1 to 12, inclusive.

(2) To pupils participating in planned variation programs pursuant to subdivision (c) of Section 52163.

(3) To pupils in secondary level individual learning programs pursuant to subdivision (e) of Section 52163.

(b) The commission shall provide for the issuance of certificates of language development specialist competence to provide instruction in impacted language programs on or before March 1, 1985. The commission shall provide for the initial examination for these certificates on or before April 1, 1985.

SEC. 6. Section 52178.3 of the Education Code is amended to read:

52178.3. An extension of waivers granted pursuant to Section 52178 shall be granted until July 1, 1987, the scheduled sunset date for bilingual education programs prescribed by Section 62000, or until any prescribed earlier date for the sunset of those programs, for teachers teaching in languages for which there is no preparation or examination available for obtaining a certificate of bilingual-crosscultural competence, as determined by the Commission on Teacher Credentialing. The extension of waivers authorized by this section shall not be granted to teachers under waiver teaching in classrooms utilizing either the Spanish language or the Cantonese dialect of the Chinese language.

This section shall become inoperative on July 1, 1987, and as of January 1, 1988, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1988, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 7. Section 52178.4 is added to the Education Code, to read:

52178.4. A teacher under a waiver authorized by Section 52178, 52178.1, or 52178.3 who has exhausted his or her eligibility to receive, extend, or renew a waiver under one of those sections as of July 1, 1985, and who has not acquired a bilingual-crosscultural certificate of competence, but has otherwise met the coursework requirements specified in the section under which the waiver has been granted, may continue to teach in bilingual classrooms until July 1, 1987, the scheduled sunset date for bilingual education programs prescribed by Section 62000, or until any prescribed earlier date for the sunset of those programs.

CHAPTER 1052

An act to add Part 9.5 (commencing with Section 14700) to the Education Code, relating to the California State Lottery Education Fund.

[Approved by Governor September 26, 1985. Filed with Secretary of State September 27, 1985]

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

SECTION 1. Part 9.5 (commencing with Section 14700) is added to the Education Code, to read:

PART 9.5. CALIFORNIA STATE LOTTERY EDUCATION FUND

14700. Funds allocated to any public educational entity from the California State Lottery Education Fund, pursuant to Section 8880.5 of the Government Code, may be used by that entity at its discretion in conformity with Section 8880.5.

14701. The Legislature recognizes that the amount of lottery revenues may fluctuate over time. Therefore, it is the intent of the Legislature that no additional funds be provided in order to offset any decline in lottery revenues.

CHAPTER 1053

An act to amend Section 6253.5 of the Government Code, relating to public records.

[Approved by Governor September 26, 1985 Filed with Secretary of State September 27, 1985.]

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

SECTION 1. Section 6253.5 of the Government Code is amended to read:

6253.5. Notwithstanding the provisions of Sections 6252 and 6253, statewide, county, city, and district initiative, referendum, and recall petitions, petitions circulated pursuant to Section 5091 of the Education Code, petitions for the reorganization of school districts submitted pursuant to Article 1 (commencing with Section 35700) of Chapter 4 of Part 21 of the Education Code, petitions for the reorganization of community college districts submitted pursuant to Part 46 (commencing with Section 74000) of the Education Code and all memoranda prepared by the county clerks in the examination of such petitions indicating which registered voters have signed

particular petitions shall not be deemed to be public records and shall not be open to inspection except by the public officer or public employees who have the duty of receiving, examining or preserving such petitions or who are responsible for the preparation of such memoranda and, if the petition is found to be insufficient, by the proponents of the petition and such representatives of the proponents as may be designated by the proponents in writing in order to determine which signatures were disqualified and the reasons therefor; provided, however, that the Attorney General, the Secretary of State, the Fair Political Practices Commission, a district attorney, a school district or a community college district attorney, and a city attorney shall be permitted to examine such material upon approval of the appropriate superior court.

If the proponents of a petition are permitted to examine the petition and memoranda, such examination shall commence not later than 21 days after certification of insufficiency.

As used in this section "proponents of the petition" means the following:

(a) For statewide initiative and referendum measures, the person or persons who submit a draft of a petition proposing the measure to the Attorney General with a request that he prepare a title and summary of the chief purpose and points of the proposed measure.

(b) For other initiative and referenda on measures, the person or persons who publish a notice of intention to circulate petitions, or, where publication is not required, who file petitions with the clerk.

(c) For recall measures, the person or persons defined in Section 29711 of the Elections Code.

(d) For petitions circulated pursuant to Section 5091 of the Education Code, the person or persons having charge of the petition who submit the petition to the county superintendent of schools.

(e) For petitions circulated pursuant to Article 1 (commencing with Section 35700) of Chapter 4 of Part 21 of the Education Code, the person or persons designated as chief petitioners under Section 35701 of the Education Code.

(f) For petitions circulated pursuant to Part 46 (commencing with Section 74000) of the Education Code, the person or persons designated as chief petitioners under Sections 74102, 74133, and 74152 of the Education Code.

CHAPTER 1054

An act to repeal and add Chapter 2.9 (commencing with Section 35570) of, and to repeal Chapter 2.95 (commencing with Section 35580) of, Part 5 of Division 13 of the Water Code, relating to California water districts.

[Approved by Governor September 26, 1985 Filed with Secretary of State September 27, 1985.]

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

SECTION 1. Chapter 2.9 (commencing with Section 35570) of Part 5 of Division 13 of the Water Code is repealed.

SEC. 2. Chapter 2.9 (commencing with Section 35570) is added to Part 5 of Division 13 of the Water Code, to read:

CHAPTER 2.9. POWER GENERATION

35570. A district may, by using any water or water supplies furnished to the district or used by the district, construct, maintain, and operate plants for the generation of hydroelectric power from that water and transmission lines for the conveyance thereof. The plants so constructed shall be operated in a manner consistent with the district's storage, transmission, and distribution of water.

Construction of the plants and transmission lines may be financed by the issuance of general obligation bonds or revenue bonds or any other method of financing district works as provided in this division.

35571. A district may join with any other district engaged in distributing water in exercising the powers set forth in this chapter, or may execute joint power agreements with any agency formed for that purpose.

35572. The hydroelectric plant and transmission lines constructed pursuant to this chapter may be leased for operation to, or the power generated may be sold to, a public utility or public agency engaged in the distribution, use, or sale of electricity.

The power generated may be used by the district for its own purposes, or for the production or transmission of water, but shall not be offered for sale directly by the district to customers, other than a public utility or public agency, for any use other than the production or transmission of water.

35573. The powers granted by this chapter shall not include, and nothing in this chapter shall be construed to permit, the acquisition of property or facilities already employed in the generation of hydroelectric energy, except by mutual agreement with the owner and operator of the property or facilities.

SEC. 3. Chapter 2.95 (commencing with Section 35580) of Part 5 of Division 13 of the Water Code is repealed.

SEC. 4. This act shall become operative only if Assembly Bill 951 of the 1985–86 Regular Session is enacted and takes effect.

CHAPTER 1055

An act to amend Sections 2712 and 2786 of, and to repeal Section 2786.5 of, the Business and Professions Code, relating to registered nursing.

[Approved by Governor September 26, 1985. Filed with Secretary of State September 27, 1985.]

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

SECTION 1. Section 2712 of the Business and Professions Code is amended to read:

2712. Five members of the board constitute a quorum for the transaction of business at any meeting.

SEC. 2. Section 2786 of the Business and Professions Code is amended to read:

2786. (a) An approved school of nursing is one which has been approved by the board, gives the course of instruction approved by the board, covering not less than two academic years, and is affiliated or conducted in connection with one or more hospitals, and is an institution of higher education or is affiliated with an institution of higher education. For purposes of this section, "institution of higher education" includes community colleges offering an associate degree. An approved school of nursing which is not an institution of higher education shall make an agreement with an institution of higher education in the same general location to grant an associate of arts degree to individuals who graduate from such school of nursing or to grant a baccalaureate degree in nursing with successful completion of an additional course of study as approved by the board and the institution involved.

(b) The board shall determine by regulation the required subjects of instruction to be completed in an approved school of nursing for licensure as a registered nurse and shall include the minimum units of theory and clinical experience necessary to achieve essential clinical competency at the entry level of the registered nurse. The board's standards shall be designed to encourage all schools to provide clinical instruction in all phases of the educational process.

(c) The board shall perform or cause to be performed an analysis of the practice of the registered nurse at the entry level at least every eight years. The determination of the required subjects of instruction shall include, but not be limited to, the above analysis.

SEC. 3. Section 2786.5 of the Business and Professions Code is repealed.

SEC. 4. Section 3 of this act shall become operative on January 1, 1987.

CHAPTER 1056

An act to amend Section 1040 of the Public Utilities Code, relating to carriers, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 26, 1985. Filed with Secretary of State September 27, 1985]

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

SECTION 1. Section 1040 of the Public Utilities Code is amended to read:

1040. The commission shall, in issuing a certificate pursuant to this article, require the passenger stage corporation to procure, and to continue in effect during the life of the certificate, adequate protection against liability imposed by law upon the corporation for the payment of damages for personal bodily injuries, including death resulting therefrom, protection against a total liability of the corporation on account of bodily injuries to, or death of, more than one person as a result of any one accident, and protection against damage or destruction of property.

The minimum requirements for these assurances of protection against liability shall not be less than the requirements which are applicable to operations of carriers conducted pursuant to the federal Bus Regulatory Reform Act of 1982 (P.L. 97-261), as amended. However, for vehicles designed to carry not more than eight persons, including the driver, the commission shall not require protection against a total liability of the corporation on account of bodily injuries to, or death of, more than one person as a result of any one accident in an amount exceeding seven hundred fifty thousand dollars ($750,000).

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

In order to institute more realistic and enforceable liability limits for passenger carriers operating small-capacity vehicles as quickly as possible for the protection of the public safety, it is necessary that this act take effect immediately.

CHAPTER 1057

An act to add Division 19 (commencing with Section 40500) to the Financial Code, relating to financial institutions.

[Approved by Governor September 26, 1985 Filed with Secretary of State September 27, 1985.]

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

SECTION 1. Division 19 (commencing with Section 40500) is added to the Financial Code, to read:

DIVISION 19. RELEASE OF DEMAND DEPOSIT FUNDS

40500. It is the intent of the Legislature that a financial institution shall not transfer funds from a depositor's account unless authorization has been granted by that depositor. This division is declaratory of existing case law and is intended to codify the law for the convenience of the public, regulatory authorities, and financial institutions.

40501. In accordance with the implied contract existing between a financial institution and its depositor, no bank, savings association, credit union, or other financial institution operating in this state which maintains and services demand deposit accounts, including NOW accounts, may release any funds from those accounts to any person or entity who is not the account holder, unless the funds are released pursuant to the depositor's authorization or in accordance with the law. This section does not apply to any setoff for a debt claimed to be owed to a bank, savings association, credit union, or other financial institution by a customer.

CHAPTER 1058

An act to add Chapter 5.3 (commencing with Section 13270) to Part 3 of Division 9 of the Welfare and Institutions Code, relating to refugee assistance.

[Approved by Governor September 26, 1985 Filed with Secretary of State September 27, 1985]

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

SECTION 1. Chapter 5.3 (commencing with Section 13270) is added to Part 3 of Division 9 of the Welfare and Institutions Code, to read:

CHAPTER 5.3. ENGLISH AS A SECOND LANGUAGE PROGRAMS

13270. The department shall require, as a condition of receiving any federal funds allocated by the department, any program for the provision of instruction in English as a second language which seeks to obtain funding derived from the federal Office of Refugee Resettlement to include all of the following items in its program

design:

(a) Entry level employment shall be the goal of the instruction in English as a second language. The Legislature finds and declares that while complete English literacy is an admirable goal and should be encouraged, it is also a lengthy process. Basic survival English that will allow a refugee to communicate with his or her co-workers and perform everyday necessities of life, such as grocery shopping, calling a physician, filling out job applications, shall be the goal of the program. Any further instruction toward full English literacy shall be gained by the refugee through the utilization of resources that exist in the community for anyone who wishes to improve his or her English skills.

(b) English instruction that is made available to a refugee in a refugee processing center shall be taken into account when assessing whether or not the refugee is in need of English as a second language instruction, and, if so, how much instruction is needed to provide him or her with survival English skills. Documentation of how many refugees who received English as a second language instruction in refugee processing centers are assessed by a program funded under this section as needing beginning instruction in English as a second language shall be kept by the provider and reported to the department on at least a quarterly basis so that the state can provide feedback to the federal government regarding the effectiveness of federally funded refugee processing center English as a second language programs.

(c) Every refugee shall be tested for proficiency in basic survival English, both prior to enrollment in, and upon completion of, English as a second language. The results of these tests shall be a major factor in evaluating the effectiveness of the provider and the advisability of continued funding of that program.

13271. The department shall ensure that English as a second language programs that are designed with specific job placements for the clients as an end product receive priority consideration for funding in the competitive bid process.

CHAPTER 1059

An act to add Chapter 2.9A (commencing with Section 1001.60) to Title 6 of Part 2 of the Penal Code, relating to diversion.

[Approved by Governor September 26, 1985 Filed with Secretary of State September 27, 1985]

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

SECTION 1. Chapter 2.9A (commencing with Section 1001.60) is added to Title 6 of Part 2 of the Penal Code, to read:

CHAPTER 2.9A. BAD CHECK DIVERSION

1001.60. Upon the adoption of a resolution by the board of supervisors declaring that there are sufficient funds available to fund the program, the district attorney may create within his office a diversion program pursuant to this chapter for persons who write bad checks. For purposes of this chapter, "writing a bad check" means making, drawing, uttering, or delivering any check or draft upon any bank or depository for the payment of money where there is probable cause to believe there has been a violation of Section 476a. The program may be conducted by the district attorney or by a private entity under contract with the district attorney.

1001.61. The district attorney may refer a bad check case to the diversion program. Except as provided in Section 1001.64, this chapter does not limit the power of the district attorney to prosecute bad check complaints.

1001.62. On receipt of a bad check case, the district attorney shall determine if the case is one which is appropriate to be referred to the bad check diversion program. In determining whether to refer a case to the bad check diversion program, the district attorney shall consider, but is not limited to, all of the following:

(a) The amount of the bad check.

(b) If the person has a prior criminal record or has previously been diverted.

(c) The number of bad check grievances against the person previously received by the district attorney.

(d) Whether there are other bad check grievances currently pending against the person.

(e) The strength of the evidence, if any, of intent to defraud the victim.

1001.63. On referral of a bad check case to the diversion program, a notice shall be forwarded by mail to the person alleged to have written the bad check which contains all of the following:

(a) The date and amount of the bad check.

(b) The name of the payee.

(c) The date before which the person must contact the person designated by the district attorney concerning the bad check.

(d) A statement of the penalty for issuance of a bad check.

1001.64. The district attorney may enter into a written agreement with the person to forego prosecution on the bad check for a period to be determined by the district attorney, not to exceed six months, pending all of the following:

(a) Completion of a class or classes conducted by the district attorney or private entity under contract with the district attorney.

(b) Full restitution being made to the victim of the bad check.

(c) Full payment of the collection fee, if any, specified in Section 1001.65.

1001.65. A district attorney may collect a fee if his or her office collects and processes a bad check. The amount of the fee shall not

exceed twenty-five dollars ($25.00) for each bad check.

1001.66. At no time shall a defendant be required to make an admission of guilt as a prerequisite for placement in a precomplaint diversion program.

1001.67. No statement, or information procured therefrom, made by the defendant in connection with the determination of his or her eligibility for diversion, and no statement, or information procured therefrom, made by the defendant, subsequent to the granting of diversion or while participating in the program, and no information contained in any report made with respect thereto, and no statement or other information concerning the defendant's participation in the program shall be admissible in any action or proceeding.

1001.68. (a) Prior to January 1, 1987, the provisions of this chapter shall be available, on a county-option basis, in Riverside, Los Angeles, Santa Barbara, San Bernardino, Imperial, Ventura, and Placer Counties as a pilot project.

(b) The counties electing to operate a pilot project pursuant to this section shall report to the Legislature, on or before September 30, 1986, regarding the progress of the project.

(c) This section shall be repealed on January 1, 1987.

CHAPTER 1060

An act to add Section 68206.6 to the Government Code, relating to payroll procedures, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 26, 1985. Filed with Secretary of State September 27, 1985.]

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

SECTION 1. Section 68206.6 is added to the Government Code, to read:

68206.6. The Controller may agree to participate in a county payroll procedure to pay superior court judges solely from a county payroll. Such procedure shall be prescribed by the county auditor and approved by resolution of the county board of supervisors. It shall include provision for payment in advance to each participating county by the state of its share of the applicable judges' salaries and may include provision for payroll deductions authorized under applicable state laws. Nothing in this section, and no procedure adopted pursuant to this section, shall increase or decrease any compensation or benefits available to, or received by, superior court judges as a result of being paid from a state payroll.

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:

Several counties have adopted or are in the process of adopting employee savings plans pursuant to Section 401K of the Internal Revenue Code. Under that section, a participant may elect to defer up to 20 percent of his or her salary in the plan. However, since a superior court judge receives only part of his or her salary from the county in which he or she sits, with the balance coming from the state, the 20 percent limitation is applied only to the county portion of his or her salary. Municipal court judges, who are paid entirely by the counties, do not suffer this limitation. In order to redress this imbalance as soon as possible, and to permit superior court judges to participate fully in 401K savings plans throughout the remainder of this year, it is necessary that this act take effect immediately.

CHAPTER 1061

An act to amend Section 4701 of the Civil Code, and to amend Section 11475.1 of the Welfare and Institutions Code, relating to child support, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1985 Filed with Secretary of State September 27, 1985]

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

SECTION 1. Section 4701 of the Civil Code, as amended by Section 1 of Chapter 1463 of the Statutes of 1984, is amended to read:

4701. (a) In any proceeding where the court has ordered either or both parents to pay any amount for the support of a minor child, the court may order either parent or both parents to assign to the county clerk, probation officer, or other officer of the court or county officer designated by the court to receive the payment, that portion of salary or wages of either parent due or to be due in the future as will be sufficient to pay the amount ordered by the court for the support, maintenance, and education of the minor child. The order shall operate as an assignment and shall be binding upon any existing or future employer of the defaulting parent upon whom a copy of the order is served. Any such order may be modified or revoked at any time by the court.

(b) (1) Notwithstanding the provisions of subdivision (a), in any proceeding where the court has ordered either or both parents to pay any amount for the support of a minor child, upon a petition signed under penalty of perjury by the person or county officer to whom support has been ordered to have been paid that the parent so ordered is in arrears in payment in a sum equal to the amount of one month of the payment within the 24-month period immediately preceding filing of the petition with the court, the court shall issue

without notice to the parent ordered to pay support an order requiring the parent ordered to pay support to assign either to the person to whom support has been ordered to have been paid or to a county officer designated by the court to receive the payment, that portion of the salary or wages of the parent due or to be due in the future as will be sufficient to pay the amount ordered by the court for the support, maintenance, and education of the minor child. Such an order shall operate as an assignment and shall be binding upon any existing or future employer of the parent ordered to pay support upon whom a copy of the order is served.

The petition shall state the number of previous times a petition for assignment has been filed pursuant to this subdivision and the county in which any such petition was filed.

(2) No petition shall be accepted for filing pursuant to this subdivision unless it contains a declaration stating that the parent, or any other person designated pursuant to subdivision (a), to whom support has been ordered to be paid has given the parent ordered to pay support a written notice of his or her intent to seek a wage assignment in the event of a default in support payments and that the notice was transmitted by certified mail or personally served at least 15 days prior to the date of the filing of the petition. A written notice of intent to seek a wage assignment may be given at the time of filing a petition or complaint for support or at any time subsequent thereto. In addition to any other penalty provided by law, the filing of a petition with knowledge of the falsity of the declaration of notice is punishable as a contempt pursuant to Section 1209 of the Code of Civil Procedure. The parent ordered to pay support may at any time waive the written notice required by this subdivision.

(3) The parent to whom support has been ordered to be paid shall notify the court and the employer of the parent ordered to pay support, by any form of mailing requiring a return receipt, of any change of address within a reasonable period of time after any such change. In instances in which payments have been ordered to be made to a county officer designated by the court, the parent to whom support has been ordered to be paid shall notify the court and the county officer, by any form of mail requiring a return receipt, of any address change within a reasonable period of time after any such change. If the employer or county officer is unable to deliver payments under the assignment for a period of six months due to the failure of the person to whom support has been ordered to be paid to notify the employer or county officer of a change of address, the employer or county officer shall not make any further payments under the assignment and shall return all undeliverable payments to the employee.

(4) An assignment order made pursuant to this subdivision shall not become effective until 10 days after service of the order on an employer.

(5) Within 10 days of service of an assignment order issued pursuant to this subdivision on an employer, the employer shall

deliver a copy of the assignment order to the parent ordered to pay support.

(6) A parent alleged to be in default may move to quash an assignment order issued under this subdivision within 10 days after service on the parent of notice of the assignment order by his or her employer if the parent states under oath that a default in the amount alleged in the petition has not occurred within the 24-month period referred to in the petition or that the amount is not owed. The motion and notice of motion to quash the assignment order shall be filed with the court issuing the assignment order within 10 days after service on the parent of notice of the order by the employer. The clerk of the court shall set the motion to quash for hearing within not less than 15 days, nor more than 20 days, after receipt of the notice of motion and shall mail to the petitioner at the return address contained in the petition a copy of the notice of motion by first-class mail within five days after receipt of the notice of motion.

(7) The employer shall continue to withhold and forward support as ordered by the court until served with notice that the motion to quash under this subdivision has been granted. An employer who willfully fails to withhold and forward support pursuant to a currently valid order entered and served upon the employer pursuant to this section is liable to the person or county officer to whom support was ordered to be paid for the amount of support not withheld, forwarded, or otherwise paid to the person or county officer. Willful failure by an employer to comply with such an order is punishable as a contempt pursuant to Section 1218 of the Code of Civil Procedure.

(8) The due date of support payments under this subdivision shall be the date specifically stated in the order of support or if no date is stated in the support order, then it shall be the last day of the month in which the support payment is to be paid.

(9) For purposes of this subdivision, arrearages of payment shall be computed on the basis of the payments owed and unpaid on the date that the parent ordered to pay support has been given notice of the order of assignment and the fact that the parent ordered to pay support may have subsequently paid the arrearages shall not relieve the court of its duty under this subdivision to order the assignment.

(10) Upon petition by the parent ordered to pay support, the court shall terminate an order of assignment entered pursuant to this subdivision upon proof of full payment pursuant to the wage assignment for the appropriate period of time, as follows:

(A) An assignment pursuant to this subdivision pursuant to an initial petition shall continue until support payments are current.

(B) An assignment under this subdivision pursuant to a second petition filed within 24 months shall continue for 24 months.

(C) An assignment under this subdivision pursuant to a third or subsequent petition filed within 48 months shall not be terminated unless upon a petition by the parent ordered to pay support the court

determines that there is good cause to terminate the assignment.

Upon petition by the parent ordered to pay support, the court shall terminate an order of assignment entered pursuant to this subdivision if the employer or county officer has been unable to deliver payments under the assignment for a period of three months due to the failure of the person to whom support has been ordered to be paid to notify the employer or county officer of a change of address.

(c) The Judicial Council shall prescribe forms for the orders for wage assignment required or authorized by this section. The employer may deduct from the salary or wages of the employee the sum of one dollar ($1) for each payment made pursuant to the order. Any such assignment made pursuant to court order shall have priority as against any attachment, execution, or other assignment, unless otherwise ordered by the court.

(d) The employer shall cooperate with and provide relevant employment information to the district attorney for the purpose of enforcing the child support obligation.

(e) No employer shall use any assignment authorized by this section as grounds for refusing to hire a person or for discharging or taking disciplinary action against an employee. An employer who engages in the conduct prohibited by this subdivision may be assessed a civil penalty of a maximum of five hundred dollars ($500).

(f) As used in this section "employer" includes the United States government and any public entity as defined in Section 811.2 of the Government Code.

(g) On declaration or affidavit of the parent to whom support has been ordered to be paid to the court that: (1) the parent ordered to make support payments is in default in such payment in the amount specified in subdivision (b), and (2) the whereabouts of the defaulting parent or the identity of his or her employer are unknown to the parent to whom support has been ordered to be paid, the district attorney shall contact the central registry maintained by the Department of Justice in the manner prescribed in Section 11478.5 of the Welfare and Institutions Code, and upon receiving the requested information, notify the court of the last known address of the absent parent and the name and address of the absent parent's last known employer. The court shall then order the defaulting parent to make support payments pursuant to subdivision (b).

(h) Nothing in this section shall limit the authority of the district attorney to utilize any and all civil and criminal remedies to enforce child support obligations regardless of whether or not the custodial parent receives welfare moneys.

(i) The provisions of this section apply to the money and benefits described in Sections 704.110 and 704.113 of the Code of Civil Procedure to the extent that such money and benefits are subject to a wage assignment for support under Chapter 4 (commencing with Section 703.010) of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure.

(j) Notwithstanding any other provision of law, when a certified copy of any order of assignment is served on any public entity described in Section 704.110 of the Code of Civil Procedure other than the United States government, that entity shall comply with any request for a return of employee contributions by an employee named in the order by delivering the contributions to the clerk of the court from which the order issued, unless the entity has received a certified copy of an order terminating the order of assignment. Upon receipt of moneys pursuant to this section, the clerk of the court, within 10 days, shall send written notice of that fact to the parties, and any agency through whom payments have been ordered under Section 4702. These moneys shall be subject to any procedure available to enforce an order for child support, but if no enforcement procedure is commenced after 30 days have elapsed from the date the notice of receipt is sent, the clerk shall, upon request, return the moneys to the public entity that delivered the moneys to the court unless the public entity has informed the court in writing that the moneys shall be released to the defaulting parent. A court shall not directly or indirectly condition the issuance, modification, or termination of, or condition the terms or conditions of, any order for the support of a minor child upon the issuance of such a request by such an employee.

(k) Notwithstanding subdivisions (a) and (b), in any case where support is ordered to be paid through the county clerk, probation officer, or other officer of the court or county officer designated by the court for those purposes, or where the district attorney requests, the court shall order a wage assignment pursuant to this section.

In any such case in which an arrearage is alleged, the party ordered to pay support may move to quash the order for wage assignment in the manner specified in subdivision (b).

As used in this subdivision, "wage assignment" has the same meaning as "assignment" and "wage assignment" in subdivisions (a) and (b).

(*l*) In any case where support for a minor child is ordered to be paid through the county clerk, probation officer, or other officer of the court or county officer designated by the court for that purpose, and where support is being paid on behalf of a minor child not receiving public assistance pursuant to the Family Economic Security Act of 1982 (Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code), the county shall forward the support received to the minor child's custodial parent within seven days of receipt.

(m) This section shall remain in effect only until January 1, 1987, and as of such date is repealed.

SEC. 2. Section 4701 of the Civil Code, as amended by Section 1.5 of Chapter 1463 of the Statutes of 1984, is amended to read:

4701. (a) In any proceeding where the court has ordered either or both parents to pay any amount for the support of a minor child, the court may order either parent or both parents to assign to the

county clerk, probation officer, or other officer of the court or county officer designated by the court to receive the payment, that portion of salary or wages of either parent due or to be due in the future as will be sufficient to pay the amount ordered by the court for the support, maintenance, and education of the minor child. The order shall operate as an assignment and shall be binding upon any existing or future employer of the defaulting parent upon whom a copy of the order is served. Any such order may be modified or revoked at any time by the court.

(b) (1) Notwithstanding the provisions of subdivision (a), in any proceeding where the court has ordered either or both parents to pay any amount for the support of a minor child, upon a petition signed under penalty of perjury by the person or county officer to whom support has been ordered to have been paid that the parent so ordered is in arrears in payment in a sum equal to the amount of one month of the payment within the 24-month period immediately preceding filing of the petition with the court, the court shall issue without notice to the parent ordered to pay support an order requiring the parent ordered to pay support to assign either to the person to whom support has been ordered to have been paid or to a county officer designated by the court to receive the payment, that portion of the salary or wages of the parent due or to be due in the future as will be sufficient to pay the amount ordered by the court for the support, maintenance, and education of the minor child. Such an order shall operate as an assignment and shall be binding upon any existing or future employer of the parent ordered to pay support upon whom a copy of the order is served.

The petition shall state the number of previous times a petition for assignment has been filed pursuant to this subdivision and the county in which any such petition was filed.

(2) No petition shall be accepted for filing pursuant to this subdivision unless it contains a declaration stating that the parent, or any other person designated pursuant to subdivision (a), to whom support has been ordered to be paid has given the parent ordered to pay support a written notice of his or her intent to seek a wage assignment in the event of a default in support payments and that the notice was transmitted by certified mail or personally served at least 15 days prior to the date of the filing of the petition. A written notice of intent to seek a wage assignment may be given at the time of filing a petition or complaint for support or at any time subsequent thereto. In addition to any other penalty provided by law, the filing of a petition with knowledge of the falsity of the declaration of notice is punishable as a contempt pursuant to Section 1209 of the Code of Civil Procedure. The parent ordered to pay support may at any time waive the written notice required by this subdivision.

(3) The parent to whom support has been ordered to be paid shall notify the court and the employer of the parent ordered to pay support, by any form of mailing requiring a return receipt, of any change of address within a reasonable period of time after any such

change. In instances in which payments have been ordered to be made to a county officer designated by the court, the parent to whom support has been ordered to be paid shall notify the court and the county officer, by any form of mail requiring a return receipt, of any address change within a reasonable period of time after any such change. If the employer or county officer is unable to deliver payments under the assignment for a period of three months due to the failure of the person to whom support has been ordered to be paid to notify the employer or county officer of a change of address, the employer or county officer shall not make any further payments under the assignment and shall return all undeliverable payments to the employee.

(4) An assignment order made pursuant to this subdivision shall not become effective until 10 days after service of the order on an employer.

(5) Within 10 days of service of an assignment order issued pursuant to this subdivision on an employer, the employer shall deliver a copy of the assignment order to the parent ordered to pay support.

(6) A parent alleged to be in default may move to quash an assignment order issued under this subdivision within 10 days after service on the parent of notice of the assignment order by his or her employer if the parent states under oath that a default in the amount alleged in the petition has not occurred within the 24-month period referred to in the petition or that the amount is not owed. The motion and notice of motion to quash the assignment order shall be filed with the court issuing the assignment order within 10 days after service on the parent of notice of the order by the employer. The clerk of the court shall set the motion to quash for hearing within not less than 15 days, nor more than 20 days, after receipt of the notice of motion and shall mail to the petitioner at the return address contained in the petition a copy of the notice of motion by first-class mail within five days after receipt of the notice of motion.

(7) The employer shall continue to withhold and forward support as ordered by the court until served with notice that the motion to quash under this subdivision has been granted. An employer who willfully fails to withhold and forward support pursuant to a currently valid order entered and served upon the employer pursuant to this section is liable to the person or county officer to whom support was ordered to be paid for the amount of support not withheld, forwarded, or otherwise paid to the person or county officer. Willful failure by an employer to comply with such an order is punishable as a contempt pursuant to Section 1218 of the Code of Civil Procedure.

(8) The due date of support payments under this subdivision shall be the date specifically stated in the order of support or if no date is stated in the support order, then it shall be the last day of the month in which the support payment is to be paid.

(9) For purposes of this subdivision, arrearages of payment shall

be computed on the basis of the payments owed and unpaid on the date that the parent ordered to pay support has been given notice of the order of assignment and the fact that the parent ordered to pay support may have subsequently paid the arrearages shall not relieve the court of its duty under this subdivision to order the assignment.

(10) Upon petition by the parent ordered to pay support, the court shall terminate an order of assignment entered pursuant to this subdivision upon proof of full payment pursuant to the wage assignment for the appropriate period of time, as follows:

(A) An assignment pursuant to this subdivision pursuant to an initial petition shall continue until support payments are current.

(B) An assignment under this subdivision pursuant to a second petition filed within 24 months shall continue for 24 months.

(C) An assignment under this subdivision pursuant to a third or subsequent petition filed within 48 months shall not be terminated unless upon a petition by the parent ordered to pay support the court determines that there is good cause to terminate the assignment.

Upon petition by the parent ordered to pay support, the court shall terminate an order of assignment entered pursuant to this subdivision if the employer or county officer has been unable to deliver payments under the assignment for a period of three months due to the failure of the person to whom support has been ordered to be paid to notify the employer or county officer of a change of address.

(c) The Judicial Council shall prescribe forms for the orders for wage assignment required or authorized by this section. The employer may deduct from the salary or wages of the employee the sum of one dollar ($1) for each payment made pursuant to the order. Any such assignment made pursuant to court order shall have priority as against any attachment, execution, or other assignment, unless otherwise ordered by the court.

(d) The employer shall cooperate with and provide relevant employment information to the district attorney for the purpose of enforcing the child support obligation.

(e) No employer shall use any assignment authorized by this section as grounds for the refusing to hire a person or for discharging or taking disciplinary action against an employee. An employer who engages in the conduct prohibited by this subdivision may be assessed a civil penalty of a maximum of five hundred dollars ($500).

(f) As used in this section "employer" includes the United States government and any public entity as defined in Section 811.2 of the Government Code.

(g) On declaration or affidavit of the parent to whom support has been ordered to be paid to the court that: (1) the parent ordered to make support payments is in default in such payment in the amount specified in subdivision (b), and (2) the whereabouts of such defaulting parent or the identity of his or her employer are unknown to the parent to whom support has been ordered to be paid, the

district attorney shall contact the central registry maintained by the Department of Justice in the manner prescribed in Section 11478.5 of the Welfare and Institutions Code, and upon receiving the requested information, notify the court of the last known address of the absent parent and the name and address of the absent parent's last known employer. The court shall then order the defaulting parent to make support payments pursuant to subdivision (b).

(h) Nothing in this section shall limit the authority of the district attorney to utilize any and all civil and criminal remedies to enforce child support obligations regardless of whether or not the custodial parent receives welfare moneys.

(i) The provisions of this section apply to the money and benefits described in Sections 704.110 and 704.113 of the Code of Civil Procedure to the extent that such money and benefits are subject to a wage assignment for support under Chapter 4 (commencing with Section 703.010) of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure.

(j) Notwithstanding any other provision of law, when a certified copy of any order of assignment is served on any public entity described in Section 704.110 of the Code of Civil Procedure other than the United States government, that entity shall comply with any request for a return of employee contributions by an employee named in that order by delivering the contributions to the clerk of the court from which the order issued, unless the entity has received a certified copy of an order terminating the order of assignment. Upon receipt of moneys pursuant to this section, the clerk of the court, within 10 days, shall send written notice of that fact to the parties, and any agency through whom payments have been ordered under Section 4702. These moneys shall be subject to any procedure available to enforce an order for child support, but if no enforcement procedure is commenced after 30 days have elapsed from the date the notice of receipt is sent, the clerk shall, upon request, return the moneys to the public entity that delivered the moneys to the court unless the public entity has informed the court in writing that the moneys shall be released to the defaulting parent. A court shall not directly or indirectly condition the issuance, modification, or termination of, or condition the terms or conditions of, any order for the support of a minor child upon the issuance of such a request by such an employee.

(k) Notwithstanding subdivisions (a) and (b) in any case where support is ordered to be paid through the county clerk, probation officer, or other officer of the court or county officer designated by the court for those purposes, or where the district attorney requests, the court shall order a wage assignment pursuant to this section. In any such case in which an arrearage is alleged, the party ordered to pay support may move to quash the order for wage assignment in the manner specified in subdivision (b).

As used in this subdivision, "wage assignment" has the same meaning as "assignment" and "wage assignment" in subdivisions (a)

and (b).

(*l*) In any case where support for a minor child is ordered to be paid through the county clerk, probation officer, or other officer of the court or county officer designated by the court for that purpose, and where support is being paid on behalf of a minor child not receiving public assistance pursuant to the Family Economic Security Act of 1982 (Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code), the county shall forward the support received to the minor child's custodial parent within seven days of receipt.

(m) This section shall become operative on January 1, 1987.

SEC. 3. Section 4701 of the Civil Code, as amended by Section 1 of Chapter 1463 of the Statutes of 1984, is amended to read:

4701. (a) In any proceeding where the court has ordered either or both parents to pay any amount for the support of a minor child, the court may order either parent or both parents to assign to either the person to whom support has been ordered to have been paid or the county officer designated by the court to receive the payment, that portion of salary or wages of either parent due or to be due in the future as will be sufficient to pay the amount ordered by the court for the support, maintenance, and education of the minor child. The order shall operate as an assignment and shall be binding upon any existing or future employer of the defaulting parent upon whom a copy of the order is served. Any such order may be modified or revoked at any time by the court.

(b) (1) Notwithstanding the provisions of subdivision (a), in any proceeding where the court has ordered either or both parents to pay any amount for the support of a minor child, upon a petition signed under penalty of perjury by the person or county officer to whom support has been ordered to have been paid that the parent so ordered is in arrears in payment in a sum equal to the amount of one month of the payment within the 24-month period immediately preceding filing of the petition with the court, the court shall issue without notice to the parent ordered to pay support an order requiring the parent ordered to pay support to assign either to the person to whom support has been ordered to have been paid or to a county officer designated by the court to receive the payment, that portion of the salary or wages of the parent due or to be due in the future as will be sufficient to pay the amount ordered by the court for the support, maintenance, and education of the minor child. Such an order shall operate as an assignment and shall be binding upon any existing or future employer of the parent ordered to pay support upon whom a copy of the order is served.

The petition shall state the number of previous times a petition for assignment has been filed pursuant to this subdivision and the county in which any such petition was filed.

(2) No petition shall be accepted for filing pursuant to this subdivision unless it contains a declaration stating that the parent, or any other person designated pursuant to subdivision (a), to whom

support has been ordered to be paid has given the parent ordered to pay support a written notice of his or her intent to seek a wage assignment in the event of a default in support payments and that the notice was transmitted by certified mail or personally served at least 15 days prior to the date of the filing of the petition. A written notice of intent to seek a wage assignment may be given at the time of filing a petition or complaint for support or at any time subsequent thereto. In addition to any other penalty provided by law, the filing of a petition with knowledge of the falsity of the declaration of notice is punishable as a contempt pursuant to Section 1209 of the Code of Civil Procedure. The parent ordered to pay support may at any time waive the written notice required by this subdivision.

(3) The parent to whom support has been ordered to be paid shall notify the court and the employer of the parent ordered to pay support, by any form of mailing requiring a return receipt, of any change of address within a reasonable period of time after any such change. In instances in which payments have been ordered to be made to a county officer designated by the court, the parent to whom support has been ordered to be paid shall notify the court and the county officer, by any form of mail requiring a return receipt, of any address change within a reasonable period of time after any such change. If the employer or county officer is unable to deliver payments under the assignment for a period of six months due to the failure of the person to whom support has been ordered to be paid to notify the employer or county officer of a change of address, the employer or county officer shall not make any further payments under the assignment and shall return all undeliverable payments to the employee.

(4) An assignment order made pursuant to this subdivision shall not become effective until 10 days after service of the order on an employer.

(5) Within 10 days of service of an assignment order issued pursuant to this subdivision on an employer, the employer shall deliver a copy of the assignment order to the parent ordered to pay support.

(6) A parent alleged to be in default may move to quash an assignment order issued under this subdivision within 10 days after service on the parent of notice of the assignment order by his or her employer if the parent states under oath that a default in the amount alleged in the petition has not occurred within the 24-month period referred to in the petition or that the amount is not owed. The motion and notice of motion to quash the assignment order shall be filed with the court issuing the assignment order within 10 days after service on the parent of notice of the order by the employer. The clerk of the court shall set the motion to quash for hearing within not less than 15 days, nor more than 20 days, after receipt of the notice of motion and shall mail to the petitioner at the return address contained in the petition a copy of the notice of motion by first-class mail within five days after receipt of the notice of motion.

(7) The employer shall continue to withhold and forward support as ordered by the court until served with notice that the motion to quash under this subdivision has been granted.

(8) The due date of support payments under this subdivision shall be the date specifically stated in the order of support or if no date is stated in the support order, then it shall be the last day of the month in which the support payment is to be paid.

(9) For purposes of this subdivision, arrearages of payment shall be computed on the basis of the payments owed and unpaid on the date that the parent ordered to pay support has been given notice of the order of assignment and the fact that the parent ordered to pay support may have subsequently paid the arrearages shall not relieve the court of its duty under this subdivision to order the assignment.

(10) Upon petition by the parent ordered to pay support, the court shall terminate an order of assignment entered pursuant to this subdivision upon proof of full payment pursuant to the wage assignment for the appropriate period of time, as follows:

(A) An assignment pursuant to this subdivision pursuant to an initial petition shall continue until support payments are current.

(B) An assignment under this subdivision pursuant to a second petition filed within 24 months shall continue for 24 months.

(C) An assignment under this subdivision pursuant to a third or subsequent petition filed within 48 months shall not be terminated unless upon a petition by the parent ordered to pay support the court determines that there is good cause to terminate the assignment.

Upon petition by the parent ordered to pay support, the court shall terminate an order of assignment entered pursuant to this subdivision if the employer or county officer has been unable to deliver payments under the assignment for a period of six months due to the failure of the person to whom support has been ordered to be paid to notify the employer or county officer of a change of address.

(c) The Judicial Council shall prescribe forms for the orders for wage assignment required or authorized by this section. The employer may deduct from the salary or wages of the employee the sum of one dollar ($1) for each payment made pursuant to the order. Any such assignment made pursuant to court order shall have priority as against any attachment, execution, or other assignment, unless otherwise ordered by the court.

(d) The employer shall cooperate with and provide relevant employment information to the district attorney for the purpose of enforcing the child support obligation.

(e) No employer shall use any assignment authorized by this section as grounds for the dismissal of that employee.

(f) As used in this section "employer" includes the United States government and any public entity as defined in Section 811.2 of the Government Code.

(g) On declaration or affidavit of the parent to whom support has

been ordered to be paid to the court that: (1) the parent ordered to make support payments is in default in the payment in the amount specified in subdivision (b), and (2) the whereabouts of the defaulting parent or the identity of his or her employer are unknown to the parent to whom support has been ordered to be paid, the district attorney shall contact the central registry maintained by the Department of Justice in the manner prescribed in Section 11478.5 of the Welfare and Institutions Code, and upon receiving the requested information, notify the court of the last known address of the absent parent and the name and address of the absent parent's last known employer. The court shall then order the defaulting parent to make support payments pursuant to subdivision (b).

(h) Nothing in this section shall limit the authority of the district attorney to utilize any and all civil and criminal remedies to enforce child support obligations regardless of whether or not the custodial parent receives welfare moneys.

(i) The provisions of this section apply to the money and benefits described in Sections 704.110 and 704.113 of the Code of Civil Procedure to the extent that the money and benefits are subject to a wage assignment for support under Chapter 4 (commencing with Section 703.010) of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure.

(j) Notwithstanding any other provision of law, when a certified copy of any order of assignment is served on any public entity described in Section 704.110 of the Code of Civil Procedure other than the United States government, that entity shall comply with any request for a return of employee contributions by an employee named in the order by delivering the contributions to the clerk of the court from which the order issued, unless the entity has received a certified copy of an order terminating the order of assignment. Upon receipt of moneys pursuant to this section, the clerk of the court, within 10 days, shall send written notice of that fact to the parties, and any agency through whom payments have been ordered under Section 4702. These moneys shall be subject to any procedure available to enforce an order for child support, but if no enforcement procedure is commenced after 30 days have elapsed from the date the notice of receipt is sent, the clerk shall, upon request, return the moneys to the public entity that delivered the moneys to the court unless the public entity has informed the court in writing that the moneys shall be released to the defaulting parent. A court shall not directly or indirectly condition the issuance, modification, or termination of, or condition the terms or conditions of, any order for the support of a minor child upon the issuance of such a request by such an employee.

(k) Notwithstanding subdivisions (a) and (b), in any case where support is ordered to be paid through the county officer designated by the court for those purposes, or where the district attorney requests, the court shall order a wage assignment pursuant to this section.

In any such case in which an arrearage is alleged, the party ordered to pay support may move to quash the order for wage assignment in the manner specified in subdivision (b).

As used in this subdivision, "wage assignment" has the same meaning as "assignment" and "wage assignment" in subdivisions (a) and (b).

(*l*) In any case where support for a minor child is ordered to be paid through the county officer designated by the court for that purpose, and where support is being paid on behalf of a minor child not receiving public assistance pursuant to the Family Economic Security Act of 1982 (Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code), the county shall forward the support received to the minor child's custodial parent within seven days of receipt.

(m) This section shall remain in effect only until January 1, 1987, and as of that date is repealed.

SEC. 4. Section 4701 of the Civil Code, as amended by Section 1.5 of Chapter 1463 of the Statutes of 1984, is amended to read:

4701. (a) In any proceeding where the court has ordered either or both parents to pay any amount for the support of a minor child, the court may order either parent or both parents to assign to either the person to whom support has been ordered to have been paid or the county officer designated by the court to receive the payment, that portion of salary or wages of either parent due or to be due in the future as will be sufficient to pay the amount ordered by the court for the support, maintenance, and education of the minor child. The order shall operate as an assignment and shall be binding upon any existing or future employer of the defaulting parent upon whom a copy of the order is served. Any such order may be modified or revoked at any time by the court.

(b) (1) Notwithstanding the provisions of subdivision (a), in any proceeding where the court has ordered either or both parents to pay any amount for the support of a minor child, upon a petition signed under penalty of perjury by the person or county officer to whom support has been ordered to have been paid that the parent so ordered is in arrears in payment in a sum equal to the amount of one month of the payment within the 24-month period immediately preceding filing of the petition with the court, the court shall issue without notice to the parent ordered to pay support an order requiring the parent ordered to pay support to assign either to the person to whom support has been ordered to have been paid or to a county officer designated by the court to receive the payment, that portion of the salary or wages of the parent due or to be due in the future as will be sufficient to pay the amount ordered by the court for the support, maintenance, and education of the minor child. Such an order shall operate as an assignment and shall be binding upon any existing or future employer of the parent ordered to pay support upon whom a copy of the order is served.

The petition shall state the number of previous times a petition for

assignment has been filed pursuant to this subdivision and the county in which any such petition was filed.

(2) No petition shall be accepted for filing pursuant to this subdivision unless it contains a declaration stating that the parent, or any other person designated pursuant to subdivision (a), to whom support has been ordered to be paid has given the parent ordered to pay support a written notice of his or her intent to seek a wage assignment in the event of a default in support payments and that the notice was transmitted by certified mail or personally served at least 15 days prior to the date of the filing of the petition. A written notice of intent to seek a wage assignment may be given at the time of filing a petition or complaint for support or at any time subsequent thereto. In addition to any other penalty provided by law, the filing of a petition with knowledge of the falsity of the declaration of notice is punishable as a contempt pursuant to Section 1209 of the Code of Civil Procedure. The parent ordered to pay support may at any time waive the written notice required by this subdivision.

(3) The parent to whom support has been ordered to be paid shall notify the court and the employer of the parent ordered to pay support, by any form of mailing requiring a return receipt, of any change of address within a reasonable period of time after any such change. In instances in which payments have been ordered to be made to a county officer designated by the court, the parent to whom support has been ordered to be paid shall notify the court and the county officer, by any form of mail requiring a return receipt, of any address change within a reasonable period of time after any such change. If the employer or county officer is unable to deliver payments under the assignment for a period of three months due to the failure of the person to whom support has been ordered to be paid to notify the employer or county officer of a change of address, the employer or county officer shall not make any further payments under the assignment and shall return all undeliverable payments to the employee.

(4) An assignment order made pursuant to this subdivision shall not become effective until 10 days after service of the order on an employer.

(5) Within 10 days of service of an assignment order issued pursuant to this subdivision on an employer, the employer shall deliver a copy of the assignment order to the parent ordered to pay support.

(6) A parent alleged to be in default may move to quash an assignment order issued under this subdivision within 10 days after service on the parent of notice of the assignment order by his or her employer if the parent states under oath that a default in the amount alleged in the petition has not occurred within the 24-month period referred to in the petition or that the amount is not owed. The motion and notice of motion to quash the assignment order shall be filed with the court issuing the assignment order within 10 days after service on the parent of notice of the order by the employer. The

clerk of the court shall set the motion to quash for hearing within not less than 15 days, nor more than 20 days, after receipt of the notice of motion and shall mail to the petitioner at the return address contained in the petition a copy of the notice of motion by first-class mail within five days after receipt of the notice of motion.

(7) The employer shall continue to withhold and forward support as ordered by the court until served with notice that the motion to quash under this subdivision has been granted.

(8) The due date of support payments under this subdivision shall be the date specifically stated in the order of support or if no date is stated in the support order, then it shall be the last day of the month in which the support payment is to be paid.

(9) For purposes of this subdivision, arrearages of payment shall be computed on the basis of the payments owed and unpaid on the date that the parent ordered to pay support has been given notice of the order of assignment and the fact that the parent ordered to pay support may have subsequently paid the arrearages shall not relieve the court of its duty under this subdivision to order the assignment.

(10) Upon petition by the parent ordered to pay support, the court shall terminate an order of assignment entered pursuant to this subdivision upon proof of full payment pursuant to the wage assignment for the appropriate period of time, as follows:

(A) An assignment pursuant to this subdivision pursuant to an initial petition shall continue until support payments are current.

(B) An assignment under this subdivision pursuant to a second petition filed within 24 months shall continue for 24 months.

(C) An assignment under this subdivision pursuant to a third or subsequent petition filed within 48 months shall not be terminated unless upon a petition by the parent ordered to pay support the court determines that there is good cause to terminate the assignment.

Upon petition by the parent ordered to pay support, the court shall terminate an order of assignment entered pursuant to this subdivision if the employer or county officer has been unable to deliver payments under the assignment for a period of three months due to the failure of the person to whom support has been ordered to be paid to notify the employer or county officer of a change of address.

(c) The Judicial Council shall prescribe forms for the orders for wage assignment required or authorized by this section. The employer may deduct from the salary or wages of the employee the sum of one dollar ($1) for each payment made pursuant to the order. Any such assignment made pursuant to court order shall have priority as against any attachment, execution, or other assignment, unless otherwise ordered by the court.

(d) The employer shall cooperate with and provide relevant employment information to the district attorney for the purpose of enforcing the child support obligation.

(e) No employer shall use any assignment authorized by this

section as grounds for the dismissal of that employee.

(f) As used in this section "employer" includes the United States government and any public entity as defined in Section 811.2 of the Government Code.

(g) On declaration or affidavit of the parent to whom support has been ordered to be paid to the court that: (1) the parent ordered to make support payments is in default in the payment in the amount specified in subdivision (b), and (2) the whereabouts of the defaulting parent or the identity of his or her employer are unknown to the parent to whom support has been ordered to be paid, the district attorney shall contact the central registry maintained by the Department of Justice in the manner prescribed in Section 11478.5 of the Welfare and Institutions Code, and upon receiving the requested information, notify the court of the last known address of the absent parent and the name and address of the absent parent's last known employer. The court shall then order the defaulting parent to make support payments pursuant to subdivision (b).

(h) Nothing in this section shall limit the authority of the district attorney to utilize any and all civil and criminal remedies to enforce child support obligations regardless of whether or not the custodial parent receives welfare moneys.

(i) The provisions of this section apply to the money and benefits described in Sections 704.110 and 704.113 of the Code of Civil Procedure to the extent that the money and benefits are subject to a wage assignment for support under Chapter 4 (commencing with Section 703.010) of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure.

(j) Notwithstanding any other provision of law, when a certified copy of any order of assignment is served on any public entity described in Section 704.110 of the Code of Civil Procedure other than the United States government, that entity shall comply with any request for a return of employee contributions by an employee named in that order by delivering the contributions to the clerk of the court from which the order issued, unless the entity has received a certified copy of an order terminating the order of assignment. Upon receipt of moneys pursuant to this section, the clerk of the court, within 10 days, shall send written notice of that fact to the parties, and any agency through whom payments have been ordered under Section 4702. These moneys shall be subject to any procedure available to enforce an order for child support, but if no enforcement procedure is commenced after 30 days have elapsed from the date the notice of receipt is sent, the clerk shall, upon request, return the moneys to the public entity that delivered the moneys to the court unless the public entity has informed the court in writing that the moneys shall be released to the defaulting parent. A court shall not directly or indirectly condition the issuance, modification, or termination of, or condition the terms or conditions of, any order for the support of a minor child upon the issuance of such a request by such an employee.

(k) Notwithstanding subdivisions (a) and (b) in any case where support is ordered to be paid through the county officer designated by the court for those purposes, or where the district attorney requests, the court shall order a wage assignment pursuant to this section. In any such case in which an arrearage is alleged, the party ordered to pay support may move to quash the order for wage assignment in the manner specified in subdivision (b).

As used in this subdivision, "wage assignment" has the same meaning as "assignment" and "wage assignment" in subdivisions (a) and (b).

(*l*) In any case where support for a minor child is ordered to be paid through the county officer designated by the court for that purpose, and where support is being paid on behalf of a minor child not receiving public assistance pursuant to the Family Economic Security Act of 1982 (Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code), the county shall forward the support received to the minor child's custodial parent within seven days of receipt.

(m) This section shall become operative on January 1, 1987.

SEC. 5. Section 4701 of the Civil Code, as amended by Section 1 of Chapter 1463 of the Statutes of 1984, is amended to read:

4701. (a) In any proceeding where the court has ordered either or both parents to pay any amount for the support of a minor child, the court may order either parent or both parents to assign to the county clerk, probation officer, or other officer of the court or county officer designated by the court to receive the payment, that portion of salary or wages of either parent due or to be due in the future as will be sufficient to pay the amount ordered by the court for the support, maintenance, and education of the minor child. The order shall operate as an assignment and shall be binding upon any existing or future employer of the defaulting parent upon whom a copy of the order is served. Any such order may be modified or revoked at any time by the court.

(b) (1) Notwithstanding the provisions of subdivision (a), in any proceeding where the court has ordered either or both parents to pay any amount for the support of a minor child, upon a petition signed under penalty of perjury by the person or county officer to whom support has been ordered to have been paid that the parent so ordered is in arrears in payment in a sum equal to the amount of one month of the payment within the 24-month period immediately preceding filing of the petition with the court, the court shall issue without notice to the parent ordered to pay support an order requiring the parent ordered to pay support to assign either to the person to whom support has been ordered to have been paid or to a county officer designated by the court to receive the payment, that portion of the salary or wages of the parent due or to be due in the future as will be sufficient to pay the amount ordered by the court for the support, maintenance, and education of the minor child. Such an order shall operate as an assignment and shall be binding upon

any existing or future employer of the parent ordered to pay support upon whom a copy of the order is served.

The petition shall state the number of previous times a petition for assignment has been filed pursuant to this subdivision and the county in which any such petition was filed.

(2) No petition shall be accepted for filing pursuant to this subdivision unless it contains a declaration stating that the parent, or any other person designated pursuant to subdivision (a), to whom support has been ordered to be paid has given the parent ordered to pay support a written notice of his or her intent to seek a wage assignment in the event of a default in support payments and that the notice was transmitted by certified mail or personally served at least 15 days prior to the date of the filing of the petition. A written notice of intent to seek a wage assignment may be given at the time of filing a petition or complaint for support or at any time subsequent thereto. In addition to any other penalty provided by law, the filing of a petition with knowledge of the falsity of the declaration of notice is punishable as a contempt pursuant to Section 1209 of the Code of Civil Procedure. The parent ordered to pay support may at any time waive the written notice required by this subdivision.

(3) The parent to whom support has been ordered to be paid shall notify the court and the employer of the parent ordered to pay support, by any form of mailing requiring a return receipt, of any change of address within a reasonable period of time after any such change. In instances in which payments have been ordered to be made to a county officer designated by the court, the parent to whom support has been ordered to be paid shall notify the court and the county officer, by any form of mail requiring a return receipt, of any address change within a reasonable period of time after the change. If the employer or county officer is unable to deliver payments under the assignment for a period of six months due to the failure of the person to whom support has been ordered to be paid to notify the employer or county officer of a change of address, the employer or county officer shall not make any further payments under the assignment and shall return all undeliverable payments to the employee.

(4) An assignment order made pursuant to this subdivision shall not become effective until 10 days after service of the order on an employer.

(5) Within 10 days of service of an assignment order issued pursuant to this subdivision on an employer, the employer shall deliver a copy of the assignment order to the parent ordered to pay support.

(6) A parent alleged to be in default may move to quash an assignment order issued under this subdivision within 10 days after service on the parent of notice of the assignment order by his or her employer if the parent states under oath that a default in the amount alleged in the petition has not occurred within the 24-month period referred to in the petition or that the amount is not owed. The

motion and notice of motion to quash the assignment order shall be filed with the court issuing the assignment order within 10 days after service on the parent of notice of the order by the employer. The clerk of the court shall set the motion to quash for hearing within not less than 15 days, nor more than 20 days, after receipt of the notice of motion and shall mail to the petitioner at the return address contained in the petition a copy of the notice of motion by first-class mail within five days after receipt of the notice of motion.

(7) The employer shall continue to withhold and forward support as ordered by the court until served with notice that the motion to quash under this subdivision has been granted.

(8) The due date of support payments under this subdivision shall be the date specifically stated in the order of support or if no date is stated in the support order, then it shall be the last day of the month in which the support payment is to be paid.

(9) For purposes of this subdivision, arrearages of payment shall be computed on the basis of the payments owed and unpaid on the date that the parent ordered to pay support has been given notice of the order of assignment and the fact that the parent ordered to pay support may have subsequently paid the arrearages shall not relieve the court of its duty under this subdivision to order the assignment.

(10) Upon petition by the parent ordered to pay support, the court shall terminate an order of assignment entered pursuant to this subdivision upon proof of full payment pursuant to the wage assignment for the appropriate period of time, as follows:

(A) An assignment pursuant to this subdivision pursuant to an initial petition shall continue until support payments are current.

(B) An assignment under this subdivision pursuant to a second petition filed within 24 months shall continue for 24 months.

(C) An assignment under this subdivision pursuant to a third or subsequent petition filed within 48 months shall not be terminated unless upon a petition by the parent ordered to pay support the court determines that there is good cause to terminate the assignment.

Upon petition by the parent ordered to pay support, the court shall terminate an order of assignment entered pursuant to this subdivision if the employer or county officer has been unable to deliver payments under the assignment for a period of three months due to the failure of the person to whom support has been ordered to be paid to notify the employer or county officer of a change of address.

(c) The Judicial Council shall prescribe forms for the orders for wage assignment required or authorized by this section. The employer may deduct from the salary or wages of the employee the sum of one dollar ($1) for each payment made pursuant to the order. Any such assignment made pursuant to court order shall have priority as against any attachment, execution, or other assignment, unless otherwise ordered by the court.

(d) The employer shall cooperate with and provide relevant

employment information to the district attorney for the purpose of enforcing the child support obligation.

(e) Orders for wage assignment required or authorized by this section shall include a requirement that the parent ordered to pay support notify the parent or other person designated to receive payment of any change of employment and of the name and address of his or her new employer.

(f) No employer shall use any assignment authorized by this section as grounds for the dismissal of that employee.

(g) As used in this section "employer" includes the United States government and any public entity as defined in Section 811.2 of the Government Code.

(h) On declaration or affidavit of the parent to whom support has been ordered to be paid to the court that: (1) the parent ordered to make support payments is in default in such payment in the amount specified in subdivision (b), and (2) the whereabouts of the defaulting parent or the identity of his or her employer are unknown to the parent to whom support has been ordered to be paid, the district attorney shall contact the central registry maintained by the Department of Justice in the manner prescribed in Section 11478.5 of the Welfare and Institutions Code, and upon receiving the requested information, notify the court of the last known address of the absent parent and the name and address of the absent parent's last known employer. The court shall then order the defaulting parent to make support payments pursuant to subdivision (b).

(i) Nothing in this section shall limit the authority of the district attorney o utilize any and all civil and criminal remedies to enforce child support obligations regardless of whether or not the custodial parent receives welfare moneys.

(j) The provisions of this section apply to the money and benefits described in Sections 704.110 and 704.113 of the Code of Civil Procedure to the extent that the money and benefits are subject to a wage assignment for support under Chapter 4 (commencing with Section 703.010) of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure.

(k) Notwithstanding any other provision of law, when a certified copy of any order of assignment is served on any public entity described in Section 704.110 of the Code of Civil Procedure other than the United States government, that entity shall comply with any request for a return of employee contributions by an employee named in the order by delivering the contributions to the clerk of the court from which the order issued, unless the entity has received a certified copy of an order terminating the order of assignment. Upon receipt of moneys pursuant to this section, the clerk of the court, within 10 days, shall send written notice of that fact to the parties, and any agency through whom payments have been ordered under Section 4702. These moneys shall be subject to any procedure available to enforce an order for child support, but if no enforcement procedure is commenced after 30 days have elapsed from the date

the notice of receipt is sent, the clerk shall, upon request, return the moneys to the public entity that delivered the moneys to the court unless the public entity has informed the court in writing that the moneys shall be released to the defaulting parent. A court shall not directly or indirectly condition the issuance, modification, or termination of, or condition the terms or conditions of, any order for the support of a minor child upon the issuance of such a request by such an employee.

(*l*) Notwithstanding subdivisions (a) and (b), in any case where support is ordered to be paid through the county clerk, probation officer, or other officer of the court or county officer designated by the court for those purposes, or where the district attorney requests, the court shall order a wage assignment pursuant to this section.

In any such case in which an arrearage is alleged, the party ordered to pay support may move to quash the order for wage assignment in the manner specified in subdivision (b).

As used in this subdivision, "wage assignment" has the same meaning as "assignment" and "wage assignment" in subdivisions (a) and (b).

(m) In any case where support for a minor child is ordered to be paid through the county clerk, probation officer, or other officer of the court or county officer designated by the court for that purpose, and where support is being paid on behalf of a minor child not receiving public assistance pursuant to the Burton-Miller Act (Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code), the county shall forward the support received to the minor child's custodial parent within seven days of receipt.

(n) This section shall remain in effect only until January 1, 1987, and as of such date is repealed.

SEC. 6. Section 4701 of the Civil Code, as amended by Section 1.5 of Chapter 1463 of the Statutes of 1984, is amended to read:

4701. (a) In any proceeding where the court has ordered either or both parents to pay any amount for the support of a minor child, the court may order either parent or both parents to assign to the county clerk, probation officer, or other officer of the court or county officer designated by the court to receive the payment, that portion of salary or wages of either parent due or to be due in the future as will be sufficient to pay the amount ordered by the court for the support, maintenance, and education of the minor child. The order shall operate as an assignment and shall be binding upon any existing or future employer of the defaulting parent upon whom a copy of the order is served. Any such order may be modified or revoked at any time by the court.

(b) (1) Notwithstanding the provisions of subdivision (a), in any proceeding where the court has ordered either or both parents to pay any amount for the support of a minor child, upon a petition signed under penalty of perjury by the person or county officer to whom support has been ordered to have been paid that the parent

so ordered is in arrears in payment in a sum equal to the amount of one month of the payment within the 24-month period immediately preceding filing of the petition with the court, the court shall issue without notice to the parent ordered to pay support an order requiring the parent ordered to pay support to assign either to the person to whom support has been ordered to have been paid or to a county officer designated by the court to receive the payment, that portion of the salary or wages of the parent due or to be due in the future as will be sufficient to pay the amount ordered by the court for the support, maintenance, and education of the minor child. Such an order shall operate as an assignment and shall be binding upon any existing or future employer of the parent ordered to pay support upon whom a copy of the order is served.

The petition shall state the number of previous times a petition for assignment has been filed pursuant to this subdivision and the county in which any such petition was filed.

(2) No petition shall be accepted for filing pursuant to this subdivision unless it contains a declaration stating that the parent, or any other person designated pursuant to subdivision (a), to whom support has been ordered to be paid has given the parent ordered to pay support a written notice of his or her intent to seek a wage assignment in the event of a default in support payments and that the notice was transmitted by certified mail or personally served at least 15 days prior to the date of the filing of the petition. A written notice of intent to seek a wage assignment may be given at the time of filing a petition or complaint for support or at any time subsequent thereto. In addition to any other penalty provided by law, the filing of a petition with knowledge of the falsity of the declaration of notice is punishable as a contempt pursuant to Section 1209 of the Code of Civil Procedure. The parent ordered to pay support may at any time waive the written notice required by this subdivision.

(3) The parent to whom support has been ordered to be paid shall notify the court and the employer of the parent ordered to pay support, by any form of mailing requiring a return receipt, of any change of address within a reasonable period of time after the change. In instances in which payments have been ordered to be made to a county officer designated by the court, the parent to whom support has been ordered to be paid shall notify the court and the county officer, by any form of mail requiring a return receipt, of any address change within a reasonable period of time after any such change. If the employer or county officer is unable to deliver payments under the assignment for a period of three months due to the failure of the person to whom support has been ordered to be paid to notify the employer or county officer of a change of address, the employer or county officer shall not make any further payments under the assignment and shall return all undeliverable payments to the employee.

(4) An assignment order made pursuant to this subdivision shall not become effective until 10 days after service of the order on an

employer.

(5) Within 10 days of service of an assignment order issued pursuant to this subdivision on an employer, the employer shall deliver a copy of the assignment order to the parent ordered to pay support.

(6) A parent alleged to be in default may move to quash an assignment order issued under this subdivision within 10 days after service on the parent of notice of the assignment order by his or her employer if the parent states under oath that a default in the amount alleged in the petition has not occurred within the 24-month period referred to in the petition or that the amount is not owed. The motion and notice of motion to quash the assignment order shall be filed with the court issuing the assignment order within 10 days after service on the parent of notice of the order by the employer. The clerk of the court shall set the motion to quash for hearing within not less than 15 days, nor more than 20 days, after receipt of the notice of motion and shall mail to the petitioner at the return address contained in the petition a copy of the notice of motion by first-class mail within five days after receipt of the notice of motion.

(7) The employer shall continue to withhold and forward support as ordered by the court until served with notice that the motion to quash under this subdivision has been granted.

(8) The due date of support payments under this subdivision shall be the date specifically stated in the order of support or if no date is stated in the support order, then it shall be the last day of the month in which the support payment is to be paid.

(9) For purposes of this subdivision, arrearages of payment shall be computed on the basis of the payments owed and unpaid on the date that the parent ordered to pay support has been given notice of the order of assignment and the fact that the parent ordered to pay support may have subsequently paid the arrearages shall not relieve the court of its duty under this subdivision to order the assignment.

(10) Upon petition by the parent ordered to pay support, the court shall terminate an order of assignment entered pursuant to this subdivision upon proof of full payment pursuant to the wage assignment for the appropriate period of time, as follows:

(A) An assignment pursuant to this subdivision pursuant to an initial petition shall continue until support payments are current.

(B) An assignment under this subdivision pursuant to a second petition filed within 24 months shall continue for 24 months.

(C) An assignment under this subdivision pursuant to a third or subsequent petition filed within 48 months shall not be terminated unless upon a petition by the parent ordered to pay support the court determines that there is good cause to terminate the assignment.

Upon petition by the parent ordered to pay support, the court shall terminate an order of assignment entered pursuant to this subdivision if the employer or county officer has been unable to deliver payments under the assignment for a period of three months

due to the failure of the person to whom support has been ordered to be paid to notify the employer or county officer of a change of address.

(c) The Judicial Council shall prescribe forms for the orders for wage assignment required or authorized by this section. The employer may deduct from the salary or wages of the employee the sum of one dollar ($1) for each payment made pursuant to the order. Any such assignment made pursuant to court order shall have priority as against any attachment, execution, or other assignment, unless otherwise ordered by the court.

(d) The employer shall cooperate with and provide relevant employment information to the district attorney for the purpose of enforcing the child support obligation.

(e) Orders for wage assignment required or authorized by this section shall include a requirement that the parent ordered to pay support notify the parent or other person designated to receive payment of any change of employment and of the name and address of his or her new employer.

(f) No employer shall use any assignment authorized by this section as grounds for the dismissal of that employee.

(g) As used in this section "employer" includes the United States government and any public entity as defined in Section 811.2 of the Government Code.

(h) On declaration or affidavit of the parent to whom support has been ordered to be paid to the court that: (1) the parent ordered to make support payments is in default in such payment in the amount specified in subdivision (b), and (2) the whereabouts of such defaulting parent or the identity of his or her employer are unknown to the parent to whom support has been ordered to be paid, the district attorney shall contact the central registry maintained by the Department of Justice in the manner prescribed in Section 11478.5 of the Welfare and Institutions Code, and upon receiving the requested information, notify the court of the last known address of the absent parent and the name and address of the absent parent's last known employer. The court shall then order the defaulting parent to make support payments pursuant to subdivision (b).

(i) Nothing in this section shall limit the authority of the district attorney to utilize any and all civil and criminal remedies to enforce child support obligations regardless of whether or not the custodial parent receives welfare moneys.

(j) The provisions of this section apply to the money and benefits described in Sections 704.110 and 704.113 of the Code of Civil Procedure to the extent that the money and benefits are subject to a wage assignment for support under Chapter 4 (commencing with Section 703.010) of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure.

(k) Notwithstanding any other provision of law, when a certified copy of any order of assignment is served on any public entity described in Section 704.110 of the Code of Civil Procedure other

than the United States government, that entity shall comply with any request for a return of employee contributions by an employee named in that order by delivering the contributions to the clerk of the court from which the order issued, unless the entity has received a certified copy of an order terminating the order of assignment. Upon receipt of moneys pursuant to this section, the clerk of the court, within 10 days, shall send written notice of that fact to the parties, and any agency through whom payments have been ordered under Section 4702. These moneys shall be subject to any procedure available to enforce an order for child support, but if no enforcement procedure is commenced after 30 days have elapsed from the date the notice of receipt is sent, the clerk shall, upon request, return the moneys to the public entity that delivered the moneys to the court unless the public entity has informed the court in writing that the moneys shall be released to the defaulting parent. A court shall not directly or indirectly condition the issuance, modification, or termination of, or condition the terms or conditions of, any order for the support of a minor child upon the issuance of such a request by such an employee.

(*l*) Notwithstanding subdivisions (a) and (b) in any case where support is ordered to be paid through the county clerk, probation officer, or other officer of the court or county officer designated by the court for those purposes, or where the district attorney requests, the court shall order a wage assignment pursuant to this section.

In any such case in which an arrearage is alleged, the party ordered to pay support may move to quash the order for wage assignment in the manner specified in subdivision (b).

As used in this subdivision, "wage assignment" has the same meaning as "assignment" and "wage assignment" in subdivisions (a) and (b).

(m) In any case where support for a minor child is ordered to be paid through the county clerk, probation officer, or other officer of the court or county officer designated by the court for that purpose, and where support is being paid on behalf of a minor child not receiving public assistance pursuant to the Burton-Miller Act (Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code), the county shall forward the support received to the minor child's custodial parent within seven days of receipt.

(n) This section shall become operative on January 1, 1987.

SEC. 7. Section 4701 of the Civil Code, as amended by Section 1 of Chapter 1463 of the Statutes of 1984, is amended to read:

4701. (a) In any proceeding where the court has ordered either or both parents to pay any amount for the support of a minor child, the court may order either parent or both parents to assign to either the person to whom support has been ordered to have been paid or the county officer designated by the court to receive the payment, that portion of salary or wages of either parent due or to be due in the future as will be sufficient to pay the amount ordered by the

court for the support, maintenance, and education of the minor child. The order shall operate as an assignment and shall be binding upon any existing or future employer of the defaulting parent upon whom a copy of the order is served. Any such order may be modified or revoked at any time by the court.

(b) (1) Notwithstanding the provisions of subdivision (a), in any proceeding where the court has ordered either or both parents to pay any amount for the support of a minor child, upon a petition signed under penalty of perjury by the person or county officer to whom support has been ordered to have been paid that the parent so ordered is in arrears in payment in a sum equal to the amount of one month of the payment within the 24-month period immediately preceding filing of the petition with the court, the court shall issue without notice to the parent ordered to pay support an order requiring the parent ordered to pay support to assign either to the person to whom support has been ordered to have been paid or to a county officer designated by the court to receive the payment, that portion of the salary or wages of the parent due or to be due in the future as will be sufficient to pay the amount ordered by the court for the support, maintenance, and education of the minor child. Such an order shall operate as an assignment and shall be binding upon any existing or future employer of the parent ordered to pay support upon whom a copy of the order is served.

The petition shall state the number of previous times a petition for assignment has been filed pursuant to this subdivision and the county in which any such petition was filed.

(2) No petition shall be accepted for filing pursuant to this subdivision unless it contains a declaration stating that the parent, or any other person designated pursuant to subdivision (a), to whom support has been ordered to be paid has given the parent ordered to pay support a written notice of his or her intent to seek a wage assignment in the event of a default in support payments and that the notice was transmitted by certified mail or personally served at least 15 days prior to the date of the filing of the petition. A written notice of intent to seek a wage assignment may be given at the time of filing a petition or complaint for support or at any time subsequent thereto. In addition to any other penalty provided by law, the filing of a petition with knowledge of the falsity of the declaration of notice is punishable as a contempt pursuant to Section 1209 of the Code of Civil Procedure. The parent ordered to pay support may at any time waive the written notice required by this subdivision.

(3) The parent to whom support has been ordered to be paid shall notify the court and the employer of the parent ordered to pay support, by any form of mailing requiring a return receipt, of any change of address within a reasonable period of time after any such change. In instances in which payments have been ordered to be made to a county officer designated by the court, the parent to whom support has been ordered to be paid shall notify the court and the county officer, by any form of mail requiring a return receipt, of any

address change within a reasonable period of time after the change. If the employer or county officer is unable to deliver payments under the assignment for a period of six months due to the failure of the person to whom support has been ordered to be paid to notify the employer or county officer of a change of address, the employer or county officer shall not make any further payments under the assignment and shall return all undeliverable payments to the employee.

(4) An assignment order made pursuant to this subdivision shall not become effective until 10 days after service of the order on an employer.

(5) Within 10 days of service of an assignment order issued pursuant to this subdivision on an employer, the employer shall deliver a copy of the assignment order to the parent ordered to pay support.

(6) A parent alleged to be in default may move to quash an assignment order issued under this subdivision within 10 days after service on the parent of notice of the assignment order by his or her employer if the parent states under oath that a default in the amount alleged in the petition has not occurred within the 24-month period referred to in the petition or that the amount is not owed. The motion and notice of motion to quash the assignment order shall be filed with the court issuing the assignment order within 10 days after service on the parent of notice of the order by the employer. The clerk of the court shall set the motion to quash for hearing within not less than 15 days, nor more than 20 days, after receipt of the notice of motion and shall mail to the petitioner at the return address contained in the petition a copy of the notice of motion by first-class mail within five days after receipt of the notice of motion.

(7) The employer shall continue to withhold and forward support as ordered by the court until served with notice that the motion to quash under this subdivision has been granted.

(8) The due date of support payments under this subdivision shall be the date specifically stated in the order of support or if no date is stated in the support order, then it shall be the last day of the month in which the support payment is to be paid.

(9) For purposes of this subdivision, arrearages of payment shall be computed on the basis of the payments owed and unpaid on the date that the parent ordered to pay support has been given notice of the order of assignment and the fact that the parent ordered to pay support may have subsequently paid the arrearages shall not relieve the court of its duty under this subdivision to order the assignment.

(10) Upon petition by the parent ordered to pay support, the court shall terminate an order of assignment entered pursuant to this subdivision upon proof of full payment pursuant to the wage assignment for the appropriate period of time, as follows:

(A) An assignment pursuant to this subdivision pursuant to an initial petition shall continue until support payments are current.

(B) An assignment under this subdivision pursuant to a second petition filed within 24 months shall continue for 24 months.

(C) An assignment under this subdivision pursuant to a third or subsequent petition filed within 48 months shall not be terminated unless upon a petition by the parent ordered to pay support the court determines that there is good cause to terminate the assignment.

Upon petition by the parent ordered to pay support, the court shall terminate an order of assignment entered pursuant to this subdivision if the employer or county officer has been unable to deliver payments under the assignment for a period of six months due to the failure of the person to whom support has been ordered to be paid to notify the employer or county officer of a change of address.

(c) The Judicial Council shall prescribe forms for the orders for wage assignment required or authorized by this section. The employer may deduct from the salary or wages of the employee the sum of one dollar ($1) for each payment made pursuant to the order. Any such assignment made pursuant to court order shall have priority as against any attachment, execution, or other assignment, unless otherwise ordered by the court.

(d) The employer shall cooperate with and provide relevant employment information to the district attorney for the purpose of enforcing the child support obligation.

(e) Orders for wage assignment required or authorized by this section shall include a requirement that the parent ordered to pay support notify the parent or other person designated to receive payment of any change of employment and of the name and address of his or her new employer.

(f) No employer shall use any assignment authorized by this section as grounds for the dismissal of that employee.

(g) As used in this section "employer" includes the United States government and any public entity as defined in Section 811.2 of the Government Code.

(h) On declaration or affidavit of the parent to whom support has been ordered to be paid to the court that: (1) the parent ordered to make support payments is in default in the payment in the amount specified in subdivision (b), and (2) the whereabouts of the defaulting parent or the identity of his or her employer are unknown to the parent to whom support has been ordered to be paid, the district attorney shall contact the central registry maintained by the Department of Justice in the manner prescribed in Section 11478.5 of the Welfare and Institutions Code, and upon receiving the requested information, notify the court of the last known address of the absent parent and the name and address of the absent parent's last known employer. The court shall then order the defaulting parent to make support payments pursuant to subdivision (b).

(i) Nothing in this section shall limit the authority of the district attorney to utilize any and all civil and criminal remedies to enforce child support obligations regardless of whether or not the custodial

parent receives welfare moneys.

(j) The provisions of this section apply to the money and benefits described in Sections 704.110 and 704.113 of the Code of Civil Procedure to the extent that the money and benefits are subject to a wage assignment for support under Chapter 4 (commencing with Section 703.010) of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure.

(k) Notwithstanding any other provision of law, when a certified copy of any order of assignment is served on any public entity described in Section 704.110 of the Code of Civil Procedure other than the United States government, that entity shall comply with any request for a return of employee contributions by an employee named in the order by delivering the contributions to the clerk of the court from which the order issued, unless the entity has received a certified copy of an order terminating the order of assignment. Upon receipt of moneys pursuant to this section, the clerk of the court, within 10 days, shall send written notice of that fact to the parties, and any agency through whom payments have been ordered under Section 4702. These moneys shall be subject to any procedure available to enforce an order for child support, but if no enforcement procedure is commenced after 30 days have elapsed from the date the notice of receipt is sent, the clerk shall, upon request, return the moneys to the public entity that delivered the moneys to the court unless the public entity has informed the court in writing that the moneys shall be released to the defaulting parent. A court shall not directly or indirectly condition the issuance, modification, or termination of, or condition the terms or conditions of, any order for the support of a minor child upon the issuance of such a request by such an employee.

(*l*) Notwithstanding subdivisions (a) and (b), in any case where support is ordered to be paid through the county officer designated by the court for those purposes, or where the district attorney requests, the court shall order a wage assignment pursuant to this section.

In any such case in which an arrearage is alleged, the party ordered to pay support may move to quash the order for wage assignment in the manner specified in subdivision (b).

As used in this subdivision, "wage assignment" has the same meaning as "assignment" and "wage assignment" in subdivisions (a) and (b).

(m) In any case where support for a minor child is ordered to be paid through the county officer designated by the court for that purpose, and where support is being paid on behalf of a minor child not receiving public assistance pursuant to the Family Economic Security Act of 1982 (Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code), the county shall forward the support received to the minor child's custodial parent within seven days of receipt.

(n) This section shall remain in effect only until January 1, 1987,

and as of that date is repealed.

SEC. 8. Section 4701 of the Civil Code, as amended by Section 1.5 of Chapter 1463 of the Statutes of 1984, is amended to read:

4701. (a) In any proceeding where the court has ordered either or both parents to pay any amount for the support of a minor child, the court may order either parent or both parents to assign to either the person to whom support has been ordered to have been paid or the county officer designated by the court to receive the payment, that portion of salary or wages of either parent due or to be due in the future as will be sufficient to pay the amount ordered by the court for the support, maintenance, and education of the minor child. The order shall operate as an assignment and shall be binding upon any existing or future employer of the defaulting parent upon whom a copy of the order is served. Any such order may be modified or revoked at any time by the court.

(b) (1) Notwithstanding the provisions of subdivision (a), in any proceeding where the court has ordered either or both parents to pay any amount for the support of a minor child, upon a petition signed under penalty of perjury by the person or county officer to whom support has been ordered to have been paid that the parent so ordered is in arrears in payment in a sum equal to the amount of one month of the payment within the 24-month period immediately preceding filing of the petition with the court, the court shall issue without notice to the parent ordered to pay support an order requiring the parent ordered to pay support to assign either to the person to whom support has been ordered to have been paid or to a county officer designated by the court to receive the payment, that portion of the salary or wages of the parent due or to be due in the future as will be sufficient to pay the amount ordered by the court for the support, maintenance, and education of the minor child. Such an order shall operate as an assignment and shall be binding upon any existing or future employer of the parent ordered to pay support upon whom a copy of the order is served.

The petition shall state the number of previous times a petition for assignment has been filed pursuant to this subdivision and the county in which any such petition was filed.

(2) No petition shall be accepted for filing pursuant to this subdivision unless it contains a declaration stating that the parent, or any other person designated pursuant to subdivision (a), to whom support has been ordered to be paid has given the parent ordered to pay support a written notice of his or her intent to seek a wage assignment in the event of a default in support payments and that the notice was transmitted by certified mail or personally served at least 15 days prior to the date of the filing of the petition. A written notice of intent to seek a wage assignment may be given at the time of filing a petition or complaint for support or at any time subsequent thereto. In addition to any other penalty provided by law, the filing of a petition with knowledge of the falsity of the declaration of notice is punishable as a contempt pursuant to Section 1209 of the Code of

Civil Procedure. The parent ordered to pay support may at any time waive the written notice required by this subdivision.

(3) The parent to whom support has been ordered to be paid shall notify the court and the employer of the parent ordered to pay support, by any form of mailing requiring a return receipt, of any change of address within a reasonable period of time after the change. In instances in which payments have been ordered to be made to a county officer designated by the court, the parent to whom support has been ordered to be paid shall notify the court and the county officer, by any form of mail requiring a return receipt, of any address change within a reasonable period of time after any such change. If the employer or county officer is unable to deliver payments under the assignment for a period of three months due to the failure of the person to whom support has been ordered to be paid to notify the employer or county officer of a change of address, the employer or county officer shall not make any further payments under the assignment and shall return all undeliverable payments to the employee.

(4) An assignment order made pursuant to this subdivision shall not become effective until 10 days after service of the order on an employer.

(5) Within 10 days of service of an assignment order issued pursuant to this subdivision on an employer, the employer shall deliver a copy of the assignment order to the parent ordered to pay support.

(6) A parent alleged to be in default may move to quash an assignment order issued under this subdivision within 10 days after service on the parent of notice of the assignment order by his or her employer if the parent states under oath that a default in the amount alleged in the petition has not occurred within the 24-month period referred to in the petition or that the amount is not owed. The motion and notice of motion to quash the assignment order shall be filed with the court issuing the assignment order within 10 days after service on the parent of notice of the order by the employer. The clerk of the court shall set the motion to quash for hearing within not less than 15 days, nor more than 20 days, after receipt of the notice of motion and shall mail to the petitioner at the return address contained in the petition a copy of the notice of motion by first-class mail within five days after receipt of the notice of motion.

(7) The employer shall continue to withhold and forward support as ordered by the court until served with notice that the motion to quash under this subdivision has been granted.

(8) The due date of support payments under this subdivision shall be the date specifically stated in the order of support or if no date is stated in the support order, then it shall be the last day of the month in which the support payment is to be paid.

(9) For purposes of this subdivision, arrearages of payment shall be computed on the basis of the payments owed and unpaid on the date that the parent ordered to pay support has been given notice

of the order of assignment and the fact that the parent ordered to pay support may have subsequently paid the arrearages shall not relieve the court of its duty under this subdivision to order the assignment.

(10) Upon petition by the parent ordered to pay support, the court shall terminate an order of assignment entered pursuant to this subdivision upon proof of full payment pursuant to the wage assignment for the appropriate period of time, as follows:

(A) An assignment pursuant to this subdivision pursuant to an initial petition shall continue until support payments are current.

(B) An assignment under this subdivision pursuant to a second petition filed within 24 months shall continue for 24 months.

(C) An assignment under this subdivision pursuant to a third or subsequent petition filed within 48 months shall not be terminated unless upon a petition by the parent ordered to pay support the court determines that there is good cause to terminate the assignment.

Upon petition by the parent ordered to pay support, the court shall terminate an order of assignment entered pursuant to this subdivision if the employer or county officer has been unable to deliver payments under the assignment for a period of three months due to the failure of the person to whom support has been ordered to be paid to notify the employer or county officer of a change of address.

(c) The Judicial Council shall prescribe forms for the orders for wage assignment required or authorized by this section. The employer may deduct from the salary or wages of the employee the sum of one dollar ($1) for each payment made pursuant to the order. Any such assignment made pursuant to court order shall have priority as against any attachment, execution, or other assignment, unless otherwise ordered by the court.

(d) The employer shall cooperate with and provide relevant employment information to the district attorney for the purpose of enforcing the child support obligation.

(e) Orders for wage assignment required or authorized by this section shall include a requirement that the parent ordered to pay support notify the parent or other person designated to receive payment of any change of employment and of the name and address of his or her new employer.

(f) No employer shall use any assignment authorized by this section as grounds for the dismissal of that employee.

(g) As used in this section "employer" includes the United States government and any public entity as defined in Section 811.2 of the Government Code.

(h) On declaration or affidavit of the parent to whom support has been ordered to be paid to the court that: (1) the parent ordered to make support payments is in default in the payment in the amount specified in subdivision (b), and (2) the whereabouts of the defaulting parent or the identity of his or her employer are unknown to the parent to whom support has been ordered to be paid, the

district attorney shall contact the central registry maintained by the Department of Justice in the manner prescribed in Section 11478.5 of the Welfare and Institutions Code, and upon receiving the requested information, notify the court of the last known address of the absent parent and the name and address of the absent parent's last known employer. The court shall then order the defaulting parent to make support payments pursuant to subdivision (b).

(i) Nothing in this section shall limit the authority of the district attorney to utilize any and all civil and criminal remedies to enforce child support obligations regardless of whether or not the custodial parent receives welfare moneys.

(j) The provisions of this section apply to the money and benefits described in Sections 704.110 and 704.113 of the Code of Civil Procedure to the extent that the money and benefits are subject to a wage assignment for support under Chapter 4 (commencing with Section 703.010) of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure.

(k) Notwithstanding any other provision of law, when a certified copy of any order of assignment is served on any public entity described in Section 704.110 of the Code of Civil Procedure other than the United States government, that entity shall comply with any request for a return of employee contributions by an employee named in that order by delivering the contributions to the clerk of the court from which the order issued, unless the entity has received a certified copy of an order terminating the order of assignment. Upon receipt of moneys pursuant to this section, the clerk of the court, within 10 days, shall send written notice of that fact to the parties, and any agency through whom payments have been ordered under Section 4702. These moneys shall be subject to any procedure available to enforce an order for child support, but if no enforcement procedure is commenced after 30 days have elapsed from the date the notice of receipt is sent, the clerk shall, upon request, return the moneys to the public entity that delivered the moneys to the court unless the public entity has informed the court in writing that the moneys shall be released to the defaulting parent. A court shall not directly or indirectly condition the issuance, modification, or termination of, or condition the terms or conditions of, any order for the support of a minor child upon the issuance of such a request by such an employee.

(*l*) Notwithstanding subdivisions (a) and (b) in case where support is ordered to be paid through the county officer designated by the court for those purposes, or where the district attorney requests, the court shall order a wage assignment pursuant to this section.

In any such case in which an arrearage is alleged, the party ordered to pay support may move to quash the order for wage assignment in the manner specified in subdivision (b).

As used in this subdivision, "wage assignment" has the same meaning as "assignment" and "wage assignment" in subdivisions (a)

and (b).

(m) In any case where support for a minor child is ordered to be paid through the county officer designated by the court for that purpose, and where support is being paid on behalf of a minor child not receiving public assistance pursuant to the Family Economic Security Act of 1982 (Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code), the county shall forward the support received to the minor child's custodial parent within seven days of receipt.

(n) This section shall become operative on January 1, 1987.

SEC. 9. Section 11475.1 of the Welfare and Institutions Code is amended to read:

11475.1. (a) Each county shall maintain a single organizational unit located in the office of the district attorney which shall have the responsibility for promptly and effectively enforcing child and spousal support obligations and determining paternity in the case of a child born out of wedlock. This responsibility shall apply to spousal support only where the spousal support obligation has been reduced to an order of a court of competent jurisdiction and the spouse (or former spouse) is receiving aid to families with dependent children for a child or children of the marriage or former marriage of the obligated spouse or former spouse. The district attorney shall take appropriate action, both civil and criminal, to enforce this obligation when the child and the spouse or former spouse is receiving public assistance. When the child is not receiving public assistance, the district attorney shall take appropriate action to enforce the child support obligation. The county shall undertake an outreach program to inform the public that this service is available to persons not receiving public assistance. There shall be prominently displayed in every public area of every office of the units established by this section a notice, in clear and simple language prescribed by the Director of Social Services, that child support enforcement services are provided to all individuals whether or not they are recipients of public social services and that spousal support enforcement services are available to those receiving public social services.

To the extent required by federal law, where the child is not receiving public assistance and the district attorney is collecting child support, or where the district attorney is collecting sums owed as a spousal support obligation under other than the state plan as set forth in Section 11475.2, the person obligated to pay the support shall also be obligated to pay the district attorney a fee equal to 10 percent of the total support collected by the district attorney, including any past due support. This fee shall not apply to any support assigned under Section 11477. No part of this fee may be collected until all support installments for which the district attorney is responsible for collecting, including past due support, have been paid in full, excluding therefrom sums to become due in the future. This fee shall be enforced the same as any other judgment or order of a superior court for child support. The effective date of the fee for purposes of

applying any time limitations on the enforcement thereof shall be the date when the support collected to which the fee applies, was paid, except that the time limitations shall be tolled until all past due support to be collected by the district attorney has been so collected. Nothing in this section shall prevent an applicant for collection of support under this section from requesting the collection be discontinued prior to the collection of sums to which the fee would otherwise apply, but the discontinuance shall have no effect on the enforcement collection of any fee which has become due because of the collection of support.

Nothing in this section shall prohibit the district attorney from entering into cooperative arrangements with other county departments as necessary to carry out the responsibilities imposed by this section pursuant to plans of cooperation with the departments approved by the State Department of Social Services.

Nothing in this section shall otherwise limit the ability of the district attorney from securing and enforcing orders for support of a spouse or former spouse as authorized under any other provision of law.

(b) As used in this article, "enforcing obligations" includes, but is not limited to, the use of all interception and notification systems operated by the State Department of Social Services for the purposes of aiding in the enforcement of support obligations.

SEC. 10. Section 11475.1 of the Welfare and Institutions Code is amended to read:

11475.1. (a) Each county shall maintain a single organizational unit located in the office of the district attorney which shall have the responsibility for promptly and effectively enforcing child and spousal support obligations and determining paternity in the case of a child born out of wedlock. This responsibility shall apply to spousal support only where the spousal support obligation has been reduced to an order of a court of competent jurisdiction and the spouse (or former spouse) is receiving aid to families with dependent children for a child or children of the marriage or former marriage of the obligated spouse or former spouse. The district attorney shall take appropriate action, both civil and criminal, to enforce this obligation when the child and the spouse or former spouse is receiving public assistance. When the child is not receiving public assistance, the district attorney shall take appropriate action to enforce the child support obligation. In any action brought or enforcement proceedings instituted by the district attorney pursuant to this section for payment of child or spousal support, an action to recover an arrearage in support payments may be maintained by the district attorney at any time within the period otherwise specified for the enforcement of a support judgment, notwithstanding the fact that the child has attained the age of majority. The county shall undertake an outreach program to inform the public that this service is available to persons not receiving public assistance. There shall be prominently displayed in every public area of every office of the

units established by this section a notice, in clear and simple language prescribed by the Director of Social Services, that child support enforcement services are provided to all individuals whether or not they are recipients of public social services and that spousal support enforcement services are available to those receiving public social services.

To the extent required by federal law, where the child is not receiving public assistance and the district attorney is collecting child support, or where the district attorney is collecting sums owed as a spousal support obligation under other than the state plan as set forth in Section 11475.2, the person obligated to pay the support shall also be obligated to pay the district attorney a fee equal to 10 percent of the total support collected by the district attorney, including any past due support. This fee shall not apply to any support assigned under Section 11477. No part of this fee may be collected until all support installments for which the district attorney is responsible for collecting, including past due support, have been paid in full, excluding therefrom sums to become due in the future. This fee shall be enforced the same as any other judgment or order of a superior court for child support. The effective date of the fee for purposes of applying any time limitations on the enforcement thereof shall be the date when the support collected to which the fee applies, was paid, except that the time limitations shall be tolled until all past due support to be collected by the district attorney has been so collected. Nothing in this section shall prevent an applicant for collection of support under this section from requesting the collection be discontinued prior to the collection of sums to which the fee would otherwise apply, but the discontinuance shall have no effect on the enforcement collection of any fee which has become due because of the collection of support.

Nothing in this section shall prohibit the district attorney from entering into cooperative arrangements with other county departments as necessary to carry out the responsibilities imposed by this section pursuant to plans of cooperation with the departments approved by the State Department of Social Services.

Nothing in this section shall otherwise limit the ability of the district attorney from securing and enforcing orders for support of a spouse or former spouse as authorized under any other provision of law.

(b) As used in this article, "enforcing obligations" includes, but is not limited to, the use of all interception and notification systems operated by the State Department of Social Services for the purposes of aiding in the enforcement of support obligations.

SEC. 11. Section 11475.1 of the Welfare and Institutions Code is amended to read:

11475.1. (a) Each county shall maintain a single organizational unit located in the office of the district attorney which shall have the responsibility for promptly and effectively enforcing child and spousal support obligations and determining paternity in the case of

a child born out of wedlock. This responsibility shall apply to spousal support only where the spousal support obligation has been reduced to an order of a court of competent jurisdiction and the spouse (or former spouse) is receiving aid to families with dependent children for a child or children of the marriage or former marriage of the obligated spouse or former spouse. In any action brought or enforcement proceedings instituted by the district attorney pursuant to this section for payment of child or spousal support, an action to recover an arrearage in support payments may be maintained by the district attorney at any time within the period otherwise specified for the enforcement of a support judgment, notwithstanding the fact that the child has attained the age of majority. The district attorney shall take appropriate action, both civil and criminal, to enforce this obligation when the child and the spouse or former spouse is receiving public assistance. When the child is not receiving public assistance, the district attorney shall take appropriate action to enforce the child support obligation. The county shall undertake an outreach program to inform the public that this service is available to persons not receiving public assistance. There shall be prominently displayed in every public area of every office of the units established by this section a notice, in clear and simple language prescribed by the Director of Social Services, that child support enforcement services are provided to all individuals whether or not they are recipients of public social services and that spousal support enforcement services are available to those receiving public social services.

To the extent required by federal law, where the child is not receiving public assistance and the district attorney is collecting child support, or where the district attorney is collecting sums owed as a spousal support obligation under other than the state plan as set forth in Section 11475.2, the person obligated to pay the support shall also be obligated to pay the district attorney a fee equal to 10 percent of the total support collected by the district attorney, including any past due support. This fee shall not apply to any support assigned under Section 11477. No part of this fee may be collected until all support installments for which the district attorney is responsible for collecting, including past due support, have been paid in full, excluding therefrom sums to become due in the future. This fee shall be enforced the same as any other judgment or order of a superior court for child support. The effective date of the fee for purposes of applying any time limitations on the enforcement thereof shall be the date when the support collected to which the fee applies, was paid, except that the time limitations shall be tolled until all past due support to be collected by the district attorney has been so collected. Nothing in this section shall prevent an applicant for collection of support under this section from requesting the collection be discontinued prior to the collection of sums to which the fee would otherwise apply, but the discontinuance shall have no effect on the enforcement collection of any fee which has become due because of

the collection of support.

In any action for child support brought by the district attorney in the performance of duties under this section, the district attorney may make a motion for an order effective during the pendency of that action, for the support, maintenance, and education of the child or children that are the subject of the action. This order shall have the same force and effect as a like or similar order under the Family Law Act (Part 5 (commencing with Section 4000) of Division 4 of the Civil Code).

If the district attorney fails to bring a motion for support, maintenance, and education of any child who is the subject of the action during the pendency of the action (a) within 90 days after the filing of an answer by the defendant when the defendant is a mother, a presumed father, as defined in subdivision (a) of Section 7004 of the Civil Code, or any father where the child is at least nine months old, or (b) within nine months after the birth of the child when any other defendant has filed an answer prior to or within the first six months after the birth of the child, then, as to that child, the district attorney shall be barred from obtaining a judgment of reimbursement for support for the child during the period of time from the date before which the motion was required to be made under subdivision (a) or (b) until the date the motion is filed or a final judgment is entered, whichever occurs first. If more than one child is the subject of the action, this limitation on reimbursement shall apply only as to those children whose parental relationship and age would bar recovery pursuant to subdivision (a) or (b) were a separate action brought for support of that child or children.

Nothing in this section shall prohibit the district attorney from entering into cooperative arrangements with other county departments as necessary to carry out the responsibilities imposed by this section pursuant to plans of cooperation with the departments approved by the State Department of Social Services.

Nothing in this section shall otherwise limit the ability of the district attorney from securing and enforcing orders for support of a spouse or former spouse as authorized under any other provision of law.

(b) As used in this article, "enforcing obligations" includes, but is not limited to, the use of all interception and notification systems operated by the State Department of Social Services for the purposes of aiding in the enforcement of support obligations.

SEC. 12. (a) Section 3 of this bill incorporates amendments to Section 4701 of the Civil Code, as amended by Section 1 of Chapter 1463 of the Statutes of 1984, proposed by both this bill and AB 250 (Chapter 404 of the Statutes of 1985). It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1986, but this bill becomes operative first, (2) each bill amends Section 4701 of the Civil Code, as amended by Section 1 of Chapter 1463 of the Statutes of 1984, and (3) AB 350 is not enacted or as enacted does not amend that section, and (4) this bill is enacted

after AB 250, in which case Sections 5 and 7 of this bill shall not become operative and Section 4701 of the Civil Code, as amended by Section 1 of Chapter 1463 of the Statutes of 1984, as amended by Section 1 of the bill, shall remain operative only until January 1, 1986, at which time Section 3 of this bill shall become operative.

(b) Section 5 of this bill incorporates amendments to Section 4701 of the Civil Code, as amended by Section 1 of Chapter 1463 of the Statutes of 1984, proposed by both this bill and AB 350. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1986, but this bill becomes operative first, (2) each bill amends Section 4701 of the Civil Code, as amended by Section 1 of Chapter 1463 of the Statutes of 1984, (3) AB 250 does not become effective or as effective does not amend that section, and (4) this bill is enacted after AB 350 in which case Sections 3 and 7 of this bill shall not become operative and, Section 4701 of the Civil Code, as amended by Section 1 of Chapter 1463 of the Statutes of 1984, as amended by Section 1 of this bill, shall remain operative only until January 1, 1986, at which time Section 5 of this bill shall become operative.

(c) Section 7 of this bill incorporates amendments to Section 4701 of the Civil Code, as amended by Section 1 of Chapter 1463 of the Statutes of 1984, proposed by this bill, AB 250, and AB 350. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 1986, but this bill becomes operative first, (2) all three bills amend Section 4701 of the Civil Code, as amended by Section 1 of Chapter 1463 of the Statutes of 1989, and (3) this bill is enacted after AB 250 and AB 350, in which case Sections 3 and 5 of this bill shall not become operative and, Section 4701 of the Civil Code, as amended by Section 1 of Chapter 1463 of the Statutes of 1984, as amended by Section 1 of this bill, shall remain operative until January 1, 1986, at which time Section 7 of this bill shall become operative.

SEC. 13. (a) Section 4 of this bill incorporates amendments to Section 4701 of the Civil Code, as amended by Section 1.5 of Chapter 1463 of the Statutes of 1984, proposed by both this bill and AB 250 (Chapter 404 of the Statutes of 1985). It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1986, but this bill becomes operative first, (2) each bill amends Section 4701 of the Civil Code, as amended by Section 1.5 of Chapter 1463 of the Statutes of 1984, and (3) AB 350 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 250, in which case Sections 6 and 8 of this bill shall not become operative and, Section 4701 of the Civil Code, as amended by Section 1.5 of Chapter 1463 of the Statutes of 1984, as amended by Section 2 of this bill, shall remain operative only until January 1, 1986, at which time Section 4 of this bill shall become operative.

(b) Section 6 of this bill incorporates amendments to Section 4701 of the Civil Code, as amended by Section 1.5 of Chapter 1463 of the Statutes of 1984, proposed by both this bill and AB 350. It shall only

become operative if (1) both bills are enacted and become effective on or before January 1, 1986, (2) each bill amends Section 4701 of the Civil Code, as amended by Section 1.5 of Chapter 1463 of the Statutes of 1984, (3) AB 250 does not become effective or as effective does not amend that section, and (4) this bill is enacted after AB 350 in which case Sections 4 and 8 of this bill shall not become operative and Section 4701 of the Civil Code, as amended by Section 1.5 of the Statutes of 1984, as amended by Section 2 of this bill, shall remain operative only until January 1, 1986, at which time Section 6 of this bill shall become operative.

(c) Section 8 of this bill incorporates amendments to Section 4701 of the Civil Code, as amended by Section 1.5 of Chapter 1463 of the Statutes of 1984, proposed by this bill, AB 250, and AB 350. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 1986, but this bill becomes operative first, (2) all three bills amend Section 4701 of the Civil Code, as amended by Section 1.5 of Chapter 1463 of the Statutes of 1984, and (3) this bill is enacted after AB 250 and AB 350, in which case Sections 4 and 6 of this bill shall not become operative and Section 4701 of the Civil Code, as amended by Section 1.5 of Chapter 1463 of the Statutes of 1984, as amended by Section 2 of this bill, shall remain operative only until January 1, 1986, at which time Section 8 of this bill shall become operative.

SEC. 14. (a) Section 10 of this bill incorporates amendments to Section 11475.1 of the Welfare and Institutions Code proposed by both this bill and AB 2305 (Chapter 373 of the Statutes of 1985). It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1986, but this bill becomes operative first, (2) each bill amends Section 11475.1 of the Welfare and Institutions Code, (3) AB 350 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 2305, in which case Section 11 of this bill shall not become operative and Section 11475.1 of the Welfare and Institutions Code as amended by Section 9 of this bill shall remain operative only until January 1, 1986, at which time Section 10 of this bill shall become operative.

(b) Section 11 of this bill incorporates amendments to Section 11475.1 of the Welfare and Institutions Code proposed by both this bill and AB 350. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1986, but this bill becomes operative first, (2) each bill amends Section 11475.1 of the Welfare and Institutions Code, (3) this bill is enacted after AB 350, in which case Section 10 of this bill shall not become operative and Section 11475.1 of the Welfare and Institutions Code as amended by Section 9 of this bill shall remain operative only until January 1, 1986, at which time Section 11 of this bill shall become operative.

SEC. 15. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for California law to be brought into compliance with the requirements of federal law at the earliest possible date, it is necessary that this act take effect immediately.

CHAPTER 1062

An act to amend Section 288a of the Penal Code, relating to crimes.

[Approved by Governor September 27, 1985 Filed with Secretary of State September 27, 1985]

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

SECTION 1. 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) Except as provided in subdivision (h), any person who

commits an act of oral copulation, and the victim is at the time incapable, because of mental disorder or developmental or 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 for three, six, or eight years. 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 disorder or developmental or physical disability rendered the alleged victim incapable of giving consent.

(h) Any person who commits an act of oral copulation, and the victim is at the time incapable, because of mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act, and both the defendant and the victim are at the time confined in a state hospital for the care and treatment of the mentally disordered or in any other public or private facility for the care and treatment of the mentally disordered approved by a county mental health director, 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 disorder or developmental or physical disability rendered the alleged victim incapable of giving consent.

CHAPTER 1063

An act to amend Section 286 of the Penal Code, relating to crimes.

[Approved by Governor September 27, 1985 Filed with Secretary of State September 27, 1985]

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

SECTION 1. 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) Except as provided in subdivision (h), any person who commits an act of sodomy, and the victim is at the time incapable, because of mental disorder or developmental or 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 for three, six, or eight years. 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 disorder or developmental or physical disability rendered the alleged victim incapable of giving consent.

(h) Any person who commits an act of sodomy, and the victim is at the time incapable, because of mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act, and both the defendant and the victim are at the time confined in a state hospital for the care and treatment of the mentally disordered or in any other public or private facility for the care and treatment of the mentally disordered approved by a county mental health director, 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 disorder or developmental or physical disability rendered the alleged victim incapable of giving legal consent.

CHAPTER 1064

An act to amend Sections 1505, 1520, 1596.70, 1596.72, 1596.73, 1596.79, 1596.792, 1596.80, 1596.81, 1596.84, 1596.851, 1596.852, 1596.853, 1596.86, 1596.87, 1596.871, 1596.873, 1596.874, 1596.880, 1596.882, 1596.89, 1596.890, 1596.95, 1597.05, 1597.09, 1597.52, 1597.54, 1597.55, and 1597.61 of, to amend and renumber Sections 1596.83, 1596.871, and 1597.98 of, to add Sections 1596.879, 1596.891, 1597.11, 1597.56, and 1597.59 to, and to repeal Sections 1544, 1596.96, 1597.56, 1597.59, 1597.62, and 1597.63 of, the Health and Safety Code, relating to day care centers.

[Approved by Governor September 27, 1985 Filed with Secretary of State September 27, 1985]

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

SECTION 1. Section 1505 of the Health and Safety Code is amended to read:

1505. This chapter does not apply to any of the following:

(a) Any health facility, as defined by Section 1250.

(b) Any clinic, as defined by Section 1202.

(c) Any juvenile placement facility approved by the California Youth Authority or any juvenile hall operated by a county.

(d) Any place in which a juvenile is judicially placed pursuant to subdivision (a) of Section 727 of the Welfare and Institutions Code.

(e) Any child day care facility, as defined in Section 1596.750.

(f) Any facility conducted by and for the adherents of any well-recognized church or religious denomination for the purpose of providing facilities for the care or treatment of the sick who depend upon prayer or spiritual means for healing in the practice of the religion of the church or denomination.

(g) Any school dormitory or similar facility determined by the department.

(h) Any house, institution, hotel, or other similar place that supplies board and room only, or room only, or board only, provided that no resident thereof requires any element of care as determined by the director.

(i) Recovery houses or other similar facilities providing group living arrangements for persons recovering from alcoholism or drug addiction where the facility provides no care or supervision.

(j) Any alcoholism recovery facility as defined by Section 11834.11.

(k) Any arrangement for the receiving and care of persons by a relative or any arrangement for the receiving and care of persons

from only one family by a close friend of the parent, guardian, or conservator, if the arrangement is not for financial profit and occurs only occasionally and irregularly, as defined by regulations of the state department.

(*l*) Any similar facility determined by the director.

SEC. 2. Section 1520 of the Health and Safety Code is amended to read:

1520. Any person desiring issuance or renewal of a license for a community care facility or a special permit for specialized services under this chapter shall file with the department, pursuant to regulations, an application on forms furnished by the department, which shall include, but not be limited to:

(a) Evidence satisfactory to the department of the ability of the applicant to comply with this chapter and of rules and regulations promulgated under this chapter by the department. Where there is an application for renewal of a license, evidence satisfactory to the department that the licensee has substantially complied for the term of the previous license with this chapter, and with the rules and regulations promulgated pursuant to this chapter.

(b) Evidence satisfactory to the department that the applicant is of reputable and responsible character. The evidence shall include, but not be limited to, a criminal record clearance pursuant to Section 1522, employment history, and character references. If the applicant is a firm, association, organization, partnership, business trust, corporation, or company, like evidence shall be submitted as to the members or shareholders thereof, and the person in charge of the community care facility for which application for issuance or renewal of license or special permit is made.

(c) Evidence satisfactory to the department that the applicant has sufficient financial resources to maintain the standards of service required by regulations adopted pursuant to this chapter.

(d) Disclosure of the applicant's prior or present service as an administrator, general partner, corporate officer or director of, or as a person who has held or holds a beneficial ownership of 10 percent or more in, any community care facility or in any facility licensed pursuant to Chapter 1 (commencing with Section 1200) or Chapter 2 (commencing with Section 1250).

(e) Disclosure of any revocation or other disciplinary action taken, or in the process of being taken, against a license held or previously held by the entities specified in subdivision (c).

(f) A signed statement that the person desiring issuance or renewal of a license or special permit has read and understood the community care facility licensure statutes and regulations which pertain to the applicant's category of licensure.

(g) Any other information which may be required by the department for the proper administration and enforcement of this chapter.

(h) In implementing this section, the department shall give due consideration to the functions of each separate licensing category.

SEC. 3. Section 1544 of the Health and Safety Code is repealed.

SEC. 4. Section 1596.70 of the Health and Safety Code is amended to read:

1596.70. This chapter and Chapters 3.5 (commencing with Section 1596.90) and 3.6 (commencing with 1597.30) may be cited as the California Child Day Care Facilities Act.

SEC. 5. Section 1596.72 of the Health and Safety Code is amended to read:

1596.72. The Legislature finds all of the following:

(a) That child day care facilities can contribute positively to a child's emotional, cognitive, and educational development.

(b) That it is the intent of this state to provide a comprehensive, quality system for licensing child day care facilities to ensure a quality day care environment.

(c) That this system of licensure requires a special understanding of the unique characteristics and needs of the children served by child day care facilities.

(d) That it is the intent of the Legislature to establish within the State Department of Social Services an organizational structure to separate licensing of child day care facilities from those facility types administered under Chapter 3 (commencing with Section 1500).

(e) That good quality child day care services are an essential service for working parents.

SEC. 6. Section 1596.73 of the Health and Safety Code is amended to read:

1596.73. The purposes of this act are to:

(a) Streamline the administration of child care licensing and thereby increase the efficiency and effectiveness of this system.

(b) Encourage the development of licensing staff with knowledge and understanding of children and child care needs.

(c) Provide providers of child care with technical assistance about licensing requirements.

(d) Enhance consumer awareness of licensing requirements and the benefits of licensed child care.

(e) Recognize that affordable, quality licensed child care is critical to the well-being of parents and children in this state.

SEC. 7. Section 1596.79 of the Health and Safety Code is amended to read:

1596.79. "Person" means an individual, partnership, association, corporation, or governmental entity, such as the state, a county, city, special district, school district, community college district, chartered city, or chartered city and county.

SEC. 8. Section 1596.792 of the Health and Safety Code is amended to read:

1596.792. This chapter and Chapters 3.5 (commencing with Section 1596.90) and 3.6 (commencing with Section 1597.30) do not apply to any of the following:

(a) Any health facilities, as defined by Section 1250.

(b) Any clinic, as defined by Section 1202.

(c) Any community care facility, as defined by Section 1502.

(d) Any family day care home providing care for the children of only one family in addition to the operator's own children.

(e) Any cooperative arrangement between parents for the care of their children by one or more of the parents where no payment for the care is involved.

(f) Any arrangement for the receiving and care of children by a relative.

(g) Any public recreation program. "Public recreation program" means a program operated by the state, city, county, special district, school district, community college district, chartered city, or chartered city and county which meets either of the following criteria:

(1) The program is provided for children over the age of four years and nine months and is in operation for either of the following periods:

(A) For under 13 hours per week.

(B) For more than 12 hours per week and is for 12 weeks or less per year in duration.

(2) The program is provided to children under the age of four years and nine months with sessions which run 12 hours per week or less and are 12 weeks or less in duration.

(h) Any similar facility determined by the department.

SEC. 8.5. Section 1596.80 of the Health and Safety Code is amended to read:

1596.80. No person, firm, partnership, association, or corporation shall operate, establish, manage, conduct, or maintain a child day care facility in this state without first obtaining or maintaining a license therefor as provided in this act.

SEC. 9. Section 1596.81 of the Health and Safety Code is amended to read:

1596.81. (a) 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 any rules and regulations which may be necessary to carry out this act.

(b) Licensing requirements adopted pursuant to Section 1530 shall only continue to be applicable to day care centers, and requirements adopted pursuant to Section 1597.51 shall continue to be applicable to family day care homes, until the department adopts regulations pursuant to this chapter.

SEC. 10. Section 1596.83 of the Health and Safety Code is amended and renumbered to read:

1597.11. The department and any local agency with which it contracts for the licensing of day care centers shall grant or deny an application for license within 30 days after receipt of all appropriate licensing application materials, as determined by the department, after a site visit has been completed and the facility has been found to be in compliance with licensing standards. The department shall conduct an initial site visit within 30 days after the receipt of all

appropriate licensing application materials.

SEC. 11. Section 1596.84 of the Health and Safety Code is amended to read:

1596.84. The department may issue provisional licenses to operate day care facilities which the director determines are in substantial compliance with the provisions of the licensure requirements and the rules and regulations adopted pursuant thereto, provided, that no life safety risks are involved, as determined by the director. In determining whether any life safety risks are involved, the director shall require completion of all applicable fire clearances and criminal record clearances as otherwise required by the department's rules and regulations. The provisional license shall expire six months from the date of issuance, or at such earlier time as the director may determine. However, the director may extend the term of a provisional license for an additional six months time, if it is determined that more than six months will be required to achieve full compliance with licensing standards due to circumstances beyond the control of the applicant, provided all other requirements for a license have been met. In no case shall a provisional license be issued for more than 12 months.

SEC. 12. Section 1596.851 of the Health and Safety Code is amended to read:

1596.851. If an application for a license or special permit indicates, or the department determines during the application review process, that the applicant previously was issued a license under this act or under Chapter 1 (commencing with Section 1200) or Chapter 2 (commencing with Section 1250) or Chapter 3 (commencing with Section 1500) and that the prior license was revoked within the preceding two years, the department shall cease any further review of the application until two years shall have elapsed from the date of the revocation. Cessation of review shall not constitute a denial of the application.

SEC. 13. Section 1596.852 of the Health and Safety Code is amended to read:

1596.852. Any duly authorized officer, employee, or agent of the department may, upon presentation of proper identification, enter and inspect any place providing personal care, supervision, and services at any time, with or without advance notice, to secure compliance with, or to prevent a violation of, this act or the regulations adopted by the department pursuant to the act.

SEC. 14. Section 1596.853 of the Health and Safety Code is amended to read:

1596.853. (a) Any person may request an inspection of any child day care facility in accordance with this act by transmitting to the department notice of an alleged violation of applicable requirements prescribed by the statutes or regulations of this state. A complaint may be made either orally or in writing.

(b) The substance of the complaint shall be provided to the licensee no earlier than at the time of the inspection. Unless the

complainant specifically requests otherwise, neither the substance of the complaint provided the licensee nor any copy of the complaint or any record published, released, or otherwise made available to the licensee shall disclose the name of any person mentioned in the complaint, except the name of any duly authorized officer, employee, or agent of the department conducting the investigation or inspection pursuant to this chapter.

(c) Upon receipt of a complaint , the department shall make a preliminary review and, unless the department determines that the complaint is willfully intended to harass a licensee or is without any reasonable basis, the department shall make an onsite inspection within 10 days after receiving the complaint. In either event, the complainant shall be promptly informed of the department's proposed course of action.

SEC. 14.5. Section 1596.853 of the Health and Safety Code is amended to read:

1596.853. (a) Any person may request an inspection of any child day care facility in accordance with the California Child Day Care Facilities Act by transmitting to the department notice of an alleged violation of applicable requirements prescribed by the statutes or regulations of this state. A complaint may be made either orally or in writing.

(b) The substance of the complaint shall be provided to the licensee no earlier than at the time of the inspection. Unless the complainant specifically requests otherwise, neither the substance of the complaint provided the licensee nor any copy of the complaint or any record published, released, or otherwise made available to the licensee shall disclose the name of any person mentioned in the complaint, except the name of any duly authorized officer, employee, or agent of the department conducting the investigation or inspection pursuant to this chapter.

(c) Upon receipt of a complaint, the department shall make a preliminary review and, unless the department determines that the complaint is willfully intended to harass a licensee or is without any reasonable basis, the department shall make an onsite inspection within 10 days after receiving the complaint. In either event, the complainant shall be promptly informed of the department's proposed course of action.

(d) Upon denial, revocation, or temporary suspension of a license, or within 24 hours of a finding that physical abuse or sexual abuse has occurred, the department shall notify the resource and referral agency funded under Section 8210 of the Education Code for that jurisdiction.

The resource and referral agency shall be notified of the final resolution.

(e) When the department substantiates an allegation which it deems to be serious, in a facility funded by the Child Development Division of the State Department of Education pursuant to Chapter 2 (commencing with Section 8200) of Part 6 of the Education Code

it shall notify the Child Development Division.

SEC. 15. Section 1596.86 of the Health and Safety Code is amended to read:

1596.86. (a) The director shall annually publish and make available to interested persons a list or lists covering all licensed child day care facilities, other than small family day care homes, and the services for which each facility has been licensed or issued a special permit. The lists shall also specify the licensed capacity of the facility and whether it is licensed by the department or by another public agency.

(b) To encourage the recruitment of small family day care homes and protect their personal privacy, the department shall promulgate regulations to prevent the use of lists containing names, addresses and other identifying information of facilities identified as small family day care homes, except as necessary for administering the licensing program, facilitating the placement of children in these facilities, and providing the names and addresses only to resource and referral agencies, family day care organizations, or parents seeking local day care services, upon request.

SEC. 16. Section 1596.87 of the Health and Safety Code is amended to read:

1596.87. The department shall institute a staff development and training program within the organizational structure to develop among staff the knowledge and understanding of children and child care necessary to successfully carry out this act. Specifically, the department shall do all of the following:

(a) Provide staff with 36 hours of training per year which reflect the unique needs of children.

(b) Find ways to encourage applications from individuals with child care provider experience or educational backgrounds applicable to the provision of child care.

(c) Provide new staff who have earned fewer than 16 semester units in child development or early childhood education from an accredited college at least 40 hours of preservice training in child development or early childhood education during the first 90 days of their employment.

(d) Submit for approval to the advisory committee established in Section 8286 of the Education Code a plan for meeting the provisions of subdivisions (a) and (c).

SEC. 17. Section 1596.871 of the Health and Safety Code, as amended and renumbered by Section 12 of Chapter 1615 of the Statutes of 1984, is amended and renumbered to read:

1596.878. The department shall establish, administer, and monitor programs which license child day care facilities consistent with the provisions of this act.

SEC. 18. Section 1596.871 of the Health and Safety Code, as added by Section 9 of Chapter 1615 of the Statutes of 1984, is amended to read:

1596.871. It is the intent of the Legislature in enacting this section

to require the fingerprints of those individuals whose contact with child day care facility clients may pose a risk to the children's health and safety.

(a) Before issuing a license or special permit to any person to operate or manage a child day care facility, the department shall secure from an appropriate law enforcement agency a criminal record to determine whether the applicant or any other person specified in subdivision (b) has ever been convicted of a crime other than a minor traffic violation. No fee shall be charged by the Department of Justice or the department for the fingerprinting of an applicant for a license to serve six or fewer children or for obtaining a criminal record of such an applicant pursuant to this section. If it is found that the applicant or any other person specified in subdivision (b) has been convicted of a crime, other than a minor traffic violation, the application shall be denied, unless the director grants an exemption pursuant to subdivision (e).

(b) In addition to the applicant, the provisions of this section shall be applicable to criminal convictions of the following persons:

(1) Adults responsible for administration or direct supervision of staff.

(2) Any person, other than a child, residing in the facility.

(3) Any person who provides care and supervision to the children.

(4) Any staff person or employee who has frequent and routine contact with the children. In determining who has frequent contact, any volunteer who is in the facility shall be exempt unless the volunteer is used to replace or supplement staff in providing direct care and supervision of children in care. In determining who has routine contact, staff and employees under direct onsite supervision and who are not providing direct care and supervision or who have only occasional or intermittent contact with clients shall be exempt. At the time of employment, all staff and employees required to be fingerprinted shall sign a statement regarding prior criminal convictions and be fingerprinted. Fingerprints shall be submitted to the licensing agency within 20 days following employment.

(5) If the applicant is a firm, partnership, association, or corporation, the chief executive officer, other person serving in like capacity, or a person designated by the chief executive officer as responsible for the operation of the facility.

(6) Additional officers of the governing body of the applicant, or other persons with a financial interest in the applicant, as determined necessary by the department by regulation. The criteria used in the development of these regulations shall be based on the person's capability to exercise substantial influence over the operation of the facility.

(7) This section does not apply to adult volunteers or adult staff employed by the applicant on an intermittent basis for less than 10 days per month, provided that these adults are under constant supervision by adults who meet the requirements of this section.

(8) This section does not apply to employees of child care and

development programs under contract with the State Department of Education who have completed a criminal records clearance as part of an application to the State Commission on Teacher Credentialing, and who possess a current credential or permit issued by the commission. The State Commission on Teacher Credentialing shall notify the department upon revocation of a current credential or permit issued to an employee of a child care and development program under contract with the State Department of Education.

(c) Subsequent to initial licensure, any person specified in subdivision (b) and not exempted from fingerprinting shall, as a condition to employment, residence, or presence in a child day care facility be fingerprinted and sign a declaration under penalty of perjury regarding any prior criminal conviction. The licensee shall submit these fingerprints to the licensing agency not later than 20 days following employment, residence, or initial presence in the child day care facility. Except for persons specified in paragraph (2) of subdivision (b), the licensee shall endeavor to ascertain the previous employment history of persons required to be fingerprinted under this subdivision. If it is determined by the department, on the basis of fingerprints submitted to the Department of Justice, that the person has been convicted of a sex offense against a minor, or has been convicted of an offense specified in Section 273a or 273d of the Penal Code, or has been convicted of a felony, the Department of Social Services shall notify the licensee to act immediately to terminate the person's employment, remove the person from the child day care facility, or bar the person from entering the child day care facility. The department may subsequently grant an exemption pursuant to subdivision (e). If the conviction was for another crime except a minor traffic violation, the licensee shall, upon notification by the Department of Social Services, act immediately to either (1) terminate the person's employment, remove the person from the child day care facility, or (2) seek an exemption pursuant to subdivision (e). The department shall determine if the person shall be allowed to remain in the facility until a decision on the exemption is rendered.

(d) For purposes of this section or any other provision of this chapter, a conviction means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which the department is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, notwithstanding a subsequent order pursuant to Sections 1203.4 and 1203.4a of the Penal Code permitting the 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. For purposes of this section or any other provision of this chapter, the record of a conviction, or a copy thereof certified by the clerk of the court or by a judge of the court in which

the conviction occurred, shall be conclusive evidence of the conviction.

(e) After review of the record, the director may grant an exemption from disqualification for a license or special permit pursuant to subdivision (a), or for employment, residence, or presence in a child day care facility as specified in subdivision (c) if the director has substantial and convincing evidence to support a reasonable belief that the applicant and the person convicted of the crime, if other than the applicant, are of such good character as to justify issuance of the license or special permit or granting an exemption for purposes of subdivision (c). However, no exemption shall be granted pursuant to this subdivision if the conviction was for an offense specified in paragraph (1) of Section 273a or 273d of the Penal Code, or was a conviction of another crime against an individual specified in subdivision (c) of Section 667.5 of the Penal Code.

(f) Upon request of the provider, who shall enclose a self-addressed stamped postcard for this purpose, the department shall verify receipt of the fingerprints.

(g) For the purposes of compliance with this section, the department shall permit an individual to transfer a current criminal records clearance, as defined in subdivision (a), from one facility to another when changing employment. The department shall supply the individual with documentation of the clearance within 30 days of a written request for the records.

SEC. 18.5. Section 1596.871 of the Health and Safety Code, as added by Section 9 of Chapter 1615 of the Statutes of 1984, is amended to read:

1596.871. It is the intent of the Legislature in enacting this section to require the fingerprints of those individuals whose contact with child day care facility clients may pose a risk to the children's health and safety.

(a) Before issuing a license or special permit to any person to operate or manage a day care facility, the department shall secure from an appropriate law enforcement agency a criminal record to determine whether the applicant or any other person specified in subdivision (b) has ever been convicted of a crime other than a minor traffic violation. No fee shall be charged by the Department of Justice or the department for the fingerprinting of an applicant for a license to serve six or fewer children or for obtaining a criminal record of such an applicant pursuant to this section. If it is found that the applicant or any other person specified in subdivision (b) has been convicted of a crime, other than a minor traffic violation, the application shall be denied, unless the director grants an exemption pursuant to subdivision (e).

(b) In addition to the applicant, this section shall be applicable to criminal convictions of the following persons:

(1) Adults responsible for administration or direct supervision of staff.

(2) Any person, other than a child, residing in the facility.

(3) Any person who provides care and supervision to the children.

(4) Any staff person or employee who has frequent and routine contact with the children. In determining who has frequent contact, any volunteer who is in the facility shall be exempt unless the volunteer is used to place or supplement staff in providing direct care and supervision of children in care. In determining who has routine contact, staff and employees under direct onsite supervision and who are not providing direct care and supervision or who have only occasional or intermittent contact with clients shall be exempt. At the time of employment, all staff and employees required to be fingerprinted shall sign a statement regarding prior criminal convictions and be fingerprinted. Fingerprints shall be submitted to the licensing agency within 20 days following employment.

(5) If the applicant is a firm, partnership, association, or corporation, the chief executive officer, other person serving in like capacity, or a person designated by the chief executive officer as responsible for the operation of the facility.

(6) Additional officers of the governing body of the applicant, or other persons with a financial interest in the applicant, as determined necessary by the department by regulation. The criteria used in the development of these regulations shall be based on the person's capability to exercise substantial influence over the operation of the facility.

(7) This section does not apply to adult volunteers or adult staff employed by the applicant on an intermittent basis for less than 10 days per month, provided that these adults are under constant supervision by adults who meet the requirements of this section.

(8) This section does not apply to employees of child care and development programs under contract with the State Department of Education who have completed a criminal records clearance as part of an application to the State Commission on Teacher Credentialing, and who possess a current credential or permit issued by the commission. The State Commission on Teacher Credentialing shall notify the department upon revocation of a current credential or permit issued to an employee of a child care and development program under contract with the State Department of Education.

(c) Subsequent to initial licensure, any person specified in subdivision (b) and not exempted from fingerprinting shall, as a condition to employment, residence, or presence in a child day care facility be fingerprinted and sign a declaration under penalty of perjury regarding any prior criminal conviction. The licensee shall submit these fingerprints to the licensing agency not later than 20 days following employment, residence, or initial presence in the child day care facility. Except for persons specified in paragraph (2) of subdivision (b), the licensee shall endeavor to ascertain the previous employment history of persons required to be fingerprinted under this subdivision. If it is determined by the department, on the basis of fingerprints submitted to the

Department of Justice, that the person has been convicted of a sex offense against a minor, or has been convicted of an offense specified in Section 243.4, 273a, or 273d of the Penal Code, or has been convicted of a felony, the Department of Social Services shall notify the licensee to act immediately to terminate the person's employment, remove the person from the child day care facility, or bar the person from entering the child day care facility. The department may subsequently grant an exemption pursuant to subdivision (e). If the conviction was for another crime except a minor traffic violation, the licensee shall, upon notification by the Department of Social Services, act immediately to either (1) terminate the person's employment, remove and bar the person from the child day care facility, or (2) seek an exemption pursuant to subdivision (e). The department shall determine if the person shall be allowed to remain in the facility until a decision on the exemption is rendered.

(d) For purposes of this section or any other provision of this chapter, a conviction means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which the department is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, notwithstanding a subsequent order pursuant to Sections 1203.4 and 1203.4a of the Penal Code permitting the 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. For purposes of this section or any other provision of this chapter, the record of a conviction, or a copy thereof certified by the clerk of the court or by a judge of the court in which the conviction occurred, shall be conclusive evidence of the conviction.

(e) After review of the record, the director may grant an exemption from disqualification for a license or special permit pursuant to subdivision (a), or for employment, residence, or presence in a child day care facility as specified in subdivision (c) if the director has substantial and convincing evidence to support a reasonable belief that the applicant and the person convicted of the crime, if other than the applicant, are of such good character as to justify issuance of the license or special permit or granting an exemption for purposes of subdivision (c). However, no exemption shall be granted pursuant to this subdivision if the conviction was for an offense specified in Section 220, 243.4, or 264.1, or paragraph (1) of Section 273a or 273d, or Section 288 or 289 of the Penal Code, or was a conviction of another crime against an individual specified in subdivision (c) of Section 667.5 of the Penal Code.

(f) Upon request of the provider, who shall enclose a self-addressed stamped postcard for this purpose, the department shall verify receipt of the fingerprints.

(g) For the purposes of compliance with this section, the department shall permit an individual to transfer a current criminal records clearance, as defined in subdivision (a), from one facility to another when changing employment. The department shall supply the individual with documentation of the clearance within 30 days of a written request for the records.

SEC. 19. Section 1596.873 of the Health and Safety Code is amended to read:

1596.873. The advisory committee established pursuant to Section 8286 of the Education Code shall perform all of the following functions with regard to this act:

(a) Assist the department in developing and reviewing guidelines for the administration of this act.

(b) Review the implementation of this act.

(c) Make written recommendations to the Legislature, the Governor, and the department by December 31, 1985, with regard to possible improvements to facilitate the implementation of this act.

(d) Advise the director regarding regulations, policy, and administrative practices pertaining to the licensing of child day care facilities.

SEC. 20. Section 1596.874 of the Health and Safety Code is amended to read:

1596.874. (a) The State Department of Social Services shall furnish each licensed child day care facility with a notice that shall be posted at the facility where it can be easily seen by employees and consumers. The required notice shall contain information which does all of the following:

(1) Identifies the licensing agency and how licensing regulations may be obtained.

(2) Gives local telephone numbers where complaints may be made.

(3) Contains the nonretaliation provision in Section 1596.881.

(b) The licensee of the child day care facility shall make his or her copy of current licensing regulations available to employees and consumers.

SEC. 20.5. Section 1596.879 is added to the Health and Safety Code, to read:

1596.879. Immediately upon the denial of any application for a license or for a special permit, the department shall notify the applicant in writing. Within 15 days after the department mails the notice, the applicant may present his or her written petition for a hearing to the department. Upon receipt by the department of the petition, the petition shall be set for hearing. The hearing 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 department has all the powers granted in that chapter.

SEC. 21. Section 1596.880 of the Health and Safety Code is amended to read:

1596.880. For the purposes of this article:

(a) "Employee" means employee of a licensee or employee of the agent of a licensee subject to this act.

(b) "Employer" means a licensee or agent of a licensee subject to this act.

SEC. 21.5. Section 1596.882 of the Health and Safety Code is amended to read:

1596.882. (a) A claim by the employee alleging the violation by the employer of Section 1596.881 shall be presented to the employer within 30 days after the action as to which complaint is made and presented to the Division of Labor Standards Enforcement not later than 60 days after the action as to which complaint is made.

(b) Upon receipt of the complaint, the Division of Labor Standards Enforcement shall cause whatever investigation to be made as it deems appropriate.

(c) If upon investigation the Division of Labor Standards Enforcement determines that the employer has violated Section 1596.881, it shall bring an action in any appropriate court against the employer.

(d) In any such action, the court shall have jurisdiction, for cause shown, to issue restraining orders and order all appropriate relief, including rehiring and reinstatement of the employee of his or her former position with backpay and benefits.

(e) Within 30 days of the receipt of a complaint pursuant to this section, the Division of Labor Standards Enforcement shall review the facts of the employee's complaint and either set a hearing date or notify the employee and the employer of its decision. Where necessary, the Division of Labor Standards Enforcement shall begin the appropriate court action to enforce the decision.

(f) Except for any grievance procedure or arbitration or hearing that is available to the employee pursuant to a collective bargaining agreement, this section is the exclusive means for presenting claims under this article.

SEC. 22. Section 1596.89 of the Health and Safety Code is amended to read:

1596.89. The director may bring an action to enjoin the violation or threatened violation of Section 1596.80 or 1596.805 in the superior court in and for the county in which the violation occurred or is about to occur. Any proceeding under this section shall conform to the requirements of Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, except that the director shall not be required to allege facts necessary to show or tending to show lack of adequate remedy at law or irreparable damage or loss. Upon a finding by the director that the violation threatens the health or safety of any child in, or served by, a child day care facility, the department or agency contracted with may bring an action to enjoin the violation, threatened violation, or continued violation by any child day care facility which is located in an area for which it is responsible pursuant to the terms of the contract.

With respect to any and all actions brought pursuant to this section

alleging actual violation of Section 1596.80 or 1596.805, the court shall, if it finds such allegations to be true, issue its order enjoining the child day care facility from continuance of the violation.

This section applies to family day care homes when the provider has failed to comply with Section 1596.80 or 1596.805 within 30 days of notice by the director of noncompliance, or at any time when a threat to the health and safety of children exists.

SEC. 23. Section 1596.890 of the Health and Safety Code is amended to read:

1596.890. Any person who willfully or repeatedly violates any provision of this act, or any rule or regulation promulgated under this chapter is guilty of a misdemeanor. Upon conviction thereof, such a person 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 the fine and imprisonment.

SEC. 24. Section 1596.891 is added to the Health and Safety Code, to read:

1596.891. Any action brought by the department against an unlicensed child day care facility shall not abate by reason of sale or other transfer of ownership of the child day care facility which is a party to the action except with the written consent of the licensing agency.

SEC. 25. Section 1596.95 of the Health and Safety Code is amended to read:

1596.95. Any person desiring issuance or renewal of a license for a day care center or a special permit for specialized services in a day care center under the provisions of this chapter shall file with the department pursuant to regulations, an application on forms furnished by the department, which shall include, but not be limited to, all of the following:

(a) Evidence satisfactory to the department of the ability of the applicant to comply with the provisions of this act and of rules and regulations promulgated under this act by the department. Where there is an application for renewal of a license, evidence satisfactory to the department that the licensee has substantially complied for the term of the previous license with the provisions of this act, and with the rules and regulations promulgated pursuant to this act.

(b) Evidence satisfactory to the department that the applicant is a reputable and responsible character. This evidence shall include, but not be limited to, a criminal record clearance pursuant to Section 1596.871, employment history, and character references. If the applicant is a firm, association, organization, partnership, business trust, corporation, or company, evidence of reputable and responsible character shall be submitted as to the members or shareholders thereof, and the person in charge of the day care center for which application for issuance or renewal of license or special permit is made.

(c) Evidence satisfactory to the department that the applicant has sufficient financial resources to maintain the standards of service

required by regulations adopted pursuant to this act. The information shall be required only upon initial application for licensure, and when requested by the department, in writing, explaining the need for the evidence as part of the department's investigative function.

(d) Disclosure of the applicant's prior or present service as an administrator, general partner, corporate officer, or director of, or as a person who has held or holds a beneficial ownership of 10 percent or more in any child day care facility or in any facility licensed pursuant to Chapter 1 (commencing with Section 1200) or Chapter 2 (commencing with Section 1250) or Chapter 3 (commencing with Section 1500).

(e) Disclosure of any revocation or other disciplinary action taken, or in the process of being taken, against a license held or previously held by the entities specified in subdivision (d).

(f) Such other information as may be required by the department for the proper administration and enforcement of this act.

SEC. 26. Section 1596.96 of the Health and Safety Code is repealed.

SEC. 27. Section 1597.05 of the Health and Safety Code is amended to read:

1597.05. (a) Licensing reviews of a day care center shall be limited to health and safety considerations and shall not include any reviews of the content of any educational or training program of the facility.

(b) A licensee shall have 30 days after the employment of a staff person or enrollment of a child to secure records requiring information from sources not in the control of the licensee, staff person, or child. An extension can be granted where the licensee can demonstrate that further delays are beyond the control of the licensee. No additional onsite inspections for the purpose of checking completion of the designated records shall be made during the 30-day period.

"Records," for the purposes of this subdivision, mean those types of records requiring information from sources not in the control of the facilities, and include, but are not limited to, all of the following:

(1) Physical examination reports by physicians and surgeons.

(2) Confirmation of required immunizations.

(3) Submission of official data describing the educational qualifications of the facility staff.

SEC. 28. Section 1597.09 of the Health and Safety Code is amended to read:

1597.09. Site visits shall be made as provided in this section as follows:

(a) A site visit to all licensed day care centers shall be made annually.

(b) A site visit shall be required for the renewal of a license.

SEC. 29. Section 1597.11 is added to the Health and Safety Code, to read:

1597.11. The department shall notify the State Department of Education when a child care or development facility licensed pursuant to this chapter is found to have licensing violations which the department has determined, by regulation, to endanger the health and safety of the children receiving care. This notification shall be made no later than 15 days after the finding of the violation or violations.

SEC. 30. Section 1597.52 of the Health and Safety Code is amended to read:

1597.52. (a) Licensing reviews 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.

(b) 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's experience as a regulated small family day care home operator or as an administrator of a licensed day care center. The director may waive this requirement upon a finding that the applicant has sufficient qualifying experience.

SEC. 31. 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, all of 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 applicant of a family day care home license, and any other adult, as required under subdivision (b) of Section 1596.871.

(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 act.

SEC. 31.5. 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. Applications shall be made under penalty of perjury and shall include, but not be limited to, all of 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 applicant of a family day care home license, and any other adult as required under subdivision (b) of Section 1596.871.

(d) Evidence of a current tuberculosis clearance for any adult in the home during the time that children are under care.

(e) A statement of any and all previous child care experience of the applicant.

(f) Such other information as may be required by the department for the proper administration and enforcement of the act.

SEC. 32. Section 1597.55 of the Health and Safety Code is amended to read:

1597.55. No site visits, or unannounced visits or spot checks, shall be made under this chapter except as provided in this section.

(a) An announced site visit shall be required prior to the initial licensing of the applicant.

(b) An unannounced site visit shall be required for the renewal of a license.

(c) A public agency under contract with the department may make spot checks if it does not result in any cost to the state. However, spot checks shall not be required by the department.

(d) The department or licensing agency shall make an unannounced site visit on the basis of a complaint and a followup visit as provided in Section 1596.853.

(e) In addition to any site visit or spot check authorized under this section, the department shall annually make unannounced visits on

10 percent of all family day care homes for children licensed under this chapter. The unannounced visits may be made at any time, including the time of a request for a renewal of a license.

(f) An unannounced site visit shall adhere to both of the following conditions:

(1) The visit shall take place only during the facility's normal business hours or at any time family day care services are being provided.

(2) The inspection of the facility shall be limited to those parts of the facility in which family day care services are provided or to which the children have access.

SEC. 33. Section 1597.56 of the Health and Safety Code is repealed.

SEC. 34. Section 1597.56 is added to the Health and Safety Code, to read:

1597.56. The department shall notify a family day care home in writing of all deficiencies in its compliance with this act and the rules and regulations adopted pursuant to this act, and shall set a reasonable length of time for compliance by the family day care home.

SEC. 35. Section 1597.59 of the Health and Safety Code is repealed.

SEC. 36. Section 1597.59 is added to the Health and Safety Code, to read:

1597.59. Notwithstanding subdivision (a) of Section 1596.871, the department and the local agencies with which it contracts for the licensing of family day care homes 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, provided:

(a) A site visit has been completed and the family day care home has been found to be in compliance with licensing standards; and

(b) The applicant and each person described by subdivision (b) of Section 1596.871 has signed and submitted a statement under penalty of perjury 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.

The department shall conduct an initial site visit within 30 days after the receipt of all appropriate licensing application materials.

If it is determined that the licensee does have a criminal record, the license may be revoked pursuant to Section 1596.885. If the criminal record shows a conviction for any crime specified in subdivision (c) of Section 1596.871, the license shall be suspended pending an administrative hearing pursuant to Section 1596.886. If any other adult described by subdivision (b) of Section 1596.871 is found to have a criminal record, the license may be suspended pending an administrative hearing, unless the licensee removes the individual from the family day care home.

SEC. 37. 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 the 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 the license, the licensing agency may issue a cease and desist order only if the unlicensed provider does not apply for a license within a reasonable time after the 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 pursuant to Section 1596.89.

(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.

SEC. 38. Section 1597.62 of the Health and Safety Code is repealed.

SEC. 39. Section 1597.63 of the Health and Safety Code is repealed.

SEC. 40. Section 1597.98 of the Health and Safety Code is amended and renumbered to read:

1596.98. The department shall notify the day care center in writing of all deficiencies in its compliance with this act and the rules and regulations adopted pursuant to this act, and shall set a reasonable length of time for compliance by the day care center. Upon a finding of noncompliance, the department may levy a civil penalty not to exceed fifty dollars ($50) per day which shall be paid to the department each day until the department finds the center in compliance. If the day care center fails to comply within the established length of time, then the amount collected from the facility shall be forfeited to the department. In that case, the department may also initiate action against the facility in accordance with Article 4 (commencing with Section 1596.885) of Chapter 3.4.

SEC. 40.3. Section 14.5 of this bill incorporates amendments to Section 1596.853 of the Health and Safety Code proposed by both this bill and AB 2337. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1986, (2) each bill amends Section 1596.853 of the Health and Safety Code, and (3) this bill is enacted after AB 2337, in which case Section 1596.853 of the Health and Safety Code, as amended by AB 2337, shall remain operative only until the operative date of this bill, at which time Section 14.5 of this bill shall become operative, and Section 14 of this

bill shall not become operative.

SEC. 40.5. Section 18.5 of this bill incorporates amendments to Section 1596.871 of the Health and Safety Code proposed by both this bill and SB 339. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1986, (2) each bill amends Section 1596.871 of the Health and Safety Code, and (3) this bill is enacted after SB 339, in which case Section 18 of this bill shall not become operative.

SEC. 40.7. Section 31.5 of this bill incorporates amendments to Section 1597.54 of the Health and Safety Code proposed by both this bill and AB 929. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1986, (2) each bill amends Section 1597.54 of the Health and Safety Code, and (3) this bill is enacted after AB 929, in which case Section 31 of this bill shall not become operative.

SEC. 41. No reimbursement shall be made from the State Mandates Claims Fund pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code for costs mandated by the state pursuant to this act. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Part 7 (commencing with Section 17500) and any other provisions of law.

CHAPTER 1065

An act to amend Section 27521 of the Health and Safety Code, relating to the California Uniform Retail Food Facilities Law.

[Approved by Governor September 27, 1985 Filed with Secretary of State September 27, 1985]

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

SECTION 1. Section 27521 of the Health and Safety Code is amended to read:

27521. "Food facility" means food establishment, vehicle, vending machine, produce stand, temporary food facility, satellite food distribution facility, and mobile food preparation unit as defined in Section 27526. "Food facility" also includes any place used in conjunction with these operations, including, but not limited to, storage facilities for food-related utensils, equipment, and materials. "Food facility" does not include premises set aside for winetasting, as that term is used in Section 23356.1 of the Business and Professions Code and in the regulations adopted pursuant to that section, if no food or beverage is offered for sale for onsite consumption.

CHAPTER 1066

An act to amend Sections 311.2 and 311.4 of the Penal Code, relating to obscene matter.

[Approved by Governor September 27, 1985. Filed with Secretary of State September 27, 1985]

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

SECTION 1. Section 311.2 of the Penal Code is amended to read:

311.2. (a) Every person who knowingly sends or causes to be sent, or brings or causes to be brought, into this state for sale or distribution, or in this state possesses, prepares, publishes, or prints, with intent to distribute or to exhibit to others, or who offers to distribute, distributes, or exhibits to others, any obscene matter is, for a first offense, guilty of a misdemeanor. If the person has previously been convicted of any violation of this section, the court may, in addition to the punishment authorized in Section 311.9, impose a fine not exceeding fifty thousand dollars ($50,000).

(b) Every person who knowingly sends or causes to be sent, or brings or causes to be brought, into this state for sale or distribution, or in this state possesses, prepares, publishes, develops, duplicates, or prints, with intent to distribute or to exhibit to, or to exchange with, others for commercial consideration, or who offers to distribute, distributes, or exhibits to, or exchanges with, others for commercial consideration, any obscene matter, knowing that the matter depicts a person under the age of 18 years personally engaging in or personally simulating sexual conduct, as defined in Section 311.4, is guilty of a felony and shall be punished by imprisonment in state prison for two, three, or four years, or by a fine not exceeding fifty thousand dollars ($50,000), in the absence of a finding that the defendant would be incapable of paying such a fine, or by both such fine and imprisonment.

(c) Every person who knowingly sends or causes to be sent, or brings or causes to be brought, into this state for sale or distribution, or in this state possesses, prepares, publishes, develops, duplicates, or prints, with intent to distribute or to exhibit to, or to exchange with, a person 18 years of age or older, or who offers to distribute, distributes, or exhibits to, or exchanges with, a person 18 years of age or older any matter, knowing that the matter depicts a person under the age of 17 years personally engaging in or personally simulating sexual conduct, as defined in Section 311.4, is guilty of a misdemeanor and shall be punished by imprisonment in the county jail for up to one year, or by a fine not exceeding two thousand dollars ($2,000), or by both such fine and imprisonment. It is not necessary to prove commercial consideration or that the matter is obscene in order to establish a violation of this subdivision. If a person has been previously convicted of a violation of this subdivision, he or she is

guilty of a felony.

(d) Every person who knowingly sends or causes to be sent, or brings or causes to be brought, into this state for sale or distribution, or in this state possesses, prepares, publishes, develops, duplicates, or prints, with intent to distribute or to exhibit to, or to exchange with, a person under 18 years of age, or who offers to distribute, distributes, or exhibits to, or exchanges with, a person under 18 years of age any matter, knowing that the matter depicts a person under the age of 17 years personally engaging in or personally simulating sexual conduct, as defined in Section 311.4, is guilty of a felony. It is not necessary to prove commercial consideration or that the matter is obscene in order to establish a violation of this subdivision.

(e) Subdivisions (a) to (d), inclusive, shall not apply to the activities of law enforcement and prosecuting agencies in the investigation and prosecution of criminal offenses or to legitimate medical, scientific, or educational activities, or to lawful conduct between spouses.

(f) This section shall not apply to matter which depicts a child under the age of 18, which child is legally emancipated, including lawful conduct between spouses when one or both are under the age of 18.

SEC. 1.5. Section 311.2 of the Penal Code is amended to read:

311.2. (a) Every person who knowingly sends or causes to be sent, or brings or causes to be brought, into this state for sale or distribution, or in this state possesses, prepares, publishes, or prints, with intent to distribute or to exhibit to others, or who offers to distribute, distributes, or exhibits to others, any obscene matter is, for the first offense guilty of a misdemeanor. If the person has previously been convicted of any violation of this section, the court may, in addition to the punishment authorized in Section 311.9, impose a fine not exceeding fifty thousand dollars ($50,000).

(b) Every person who knowingly sends or causes to be sent, or brings or causes to be brought, into this state for sale or distribution, or in this state possesses, prepares, publishes, develops, duplicates, or prints, with intent to distribute or to exhibit to, or to exchange with, others for commercial consideration, or who offers to distribute, distributes, or exhibits to, or exchanges with, others for commercial consideration, any obscene matter, knowing that the matter depicts a person under the age of 18 years personally engaging in or personally simulating sexual conduct, as defined in Section 311.4, is guilty of a felony and shall be punished by imprisonment in state prison for two, three, or six years, or by a fine not exceeding one hundred thousand dollars ($100,000), in the absence of a finding that the defendant would be incapable of paying such a fine, or by both such fine and imprisonment.

(c) Every person who knowingly sends or causes to be sent, or brings or causes to be brought, into this state for sale or distribution, or in this state possesses, prepares, publishes, develops, duplicates, or prints, with intent to distribute or to exhibit to, or to exchange with,

a person 18 years of age or older, or who offers to distribute, distributes, or exhibits to, or exchanges with, a person 18 years of age or older any matter, knowing that the matter depicts a person under the age of 17 years personally engaging in or personally simulating sexual conduct, as defined in Section 311.4, is guilty of a misdemeanor and shall be punished by imprisonment in the county jail for up to one year, or by a fine not exceeding two thousand dollars ($2,000), or by both such fine and imprisonment. It is not necessary to prove commercial consideration or that the matter is obscene in order to establish a violation of this subdivision. If a person has been previously convicted of a violation of this subdivision, he or she is guilty of a felony.

(d) Every person who knowingly sends or causes to be sent, or brings or causes to be brought, into this state for sale or distribution, or in this state possesses, prepares, publishes, develops, duplicates, or prints, with intent to distribute or to exhibit to, or to exchange with, a person under 18 years of age, or who offers to distribute, distributes, or exhibits to, or exchanges with, a person under 18 years of age any matter, knowing that the matter depicts a person under the age of 17 years personally engaging in or personally simulating sexual conduct, as defined in Section 311.4, is guilty of a felony. It is not necessary to prove commercial consideration or that the matter is obscene in order to establish a violation of this subdivision.

(e) Subdivisions (a) to (d), inclusive, shall not apply to the activities of law enforcement and prosecuting agencies in the investigation and prosecution of criminal offenses or to legitimate medical, scientific, or educational activities, or to lawful conduct between spouses.

(f) This section shall not apply to matter which depicts a child under the age of 18, which child is legally emancipated, including lawful conduct between spouses when one or both are under the age of 18.

SEC. 2. Section 311.4 of the Penal Code is amended to read:

311.4. (a) Every person who, with knowledge that a person is a minor, or who, while in possession of any facts on the basis of which he or she should reasonably know that the person is a minor, hires, employs, or uses the minor to do or assist in doing any of the acts described in Section 311.2, is, for a first offense, guilty of a misdemeanor. If the person has previously been convicted of any violation of this section, the court may, in addition to the punishment authorized in Section 311.9, impose a fine not exceeding fifty thousand dollars ($50,000).

(b) Every person who, with knowledge that a person is a minor under the age of 17 years, or who, while in possession of any facts on the basis of which he or she should reasonably know that the person is a minor under the age of 17 years, knowingly promotes, employs, uses, persuades, induces, or coerces a minor under the age of 17 years, or any parent or guardian of a minor under the age of 17 years under his or her control who knowingly permits the minor, to engage

in or assist others to engage in either posing or modeling alone or with others for purposes of preparing a film, photograph, negative, slide, or live performance involving sexual conduct by a minor under the age of 17 years alone or with other persons or animals, for commercial purposes, is guilty of a felony and shall be punished by imprisonment in the state prison for three, six, or eight years.

(c) Every person who, with knowledge that a person is a minor under the age of 17 years, or who, while in possession of any facts on the basis of which he or she should reasonably know that the person is a minor under the age of 17 years, knowingly promotes, employs, uses, persuades, induces, or coerces a minor under the age of 17 years, or any parent or guardian of a minor under the age of 17 years under his or her control who knowingly permits the minor, to engage in or assist others to engage in either posing or modeling alone or with others for purposes of preparing a film, photograph, negative, slide, or live performance involving sexual conduct by a minor under the age of 17 years alone or with other persons or animals, is guilty of a felony. It shall not be necessary to prove commercial purposes in order to establish a violation of this subdivision.

(d) As used in subdivisions (b) and (c), "sexual conduct" means any of the following, whether actual or simulated: sexual intercourse, oral copulation, anal intercourse, anal oral copulation, masturbation, bestiality, sexual sadism, sexual masochism, penetration of the vagina or rectum by any object in a lewd or lascivious manner, exhibition of the genitals, pubic, or rectal area for the purpose of sexual stimulation of the viewer, any lewd or lascivious sexual act as defined in Section 288, or excretory functions performed in a lewd or lascivious manner, whether or not any of the above conduct is performed alone or between members of the same or opposite sex or between humans and animals. An act is simulated when it gives the appearance of being sexual conduct.

(e) This section shall not apply where the minor is legally emancipated, including lawful conduct between spouses when one or both are under the age of 17.

SEC. 4. Section 1.5 of this bill incorporates amendments to Section 311.2 of the Penal Code proposed by both this bill and SB 272. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1986, (2) each bill amends Section 311.2 of the Penal Code, and (3) this bill is enacted after SB 272, in which case Section 1 of this bill shall not become operative.

SEC. 4. No reimbursement is required by this act pursuant to 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 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 1067

An act to amend Sections 9356.21, 20890, 20980, 22790, and 22754 of, to add Sections 22857 and 22857.1 to, to repeal Section 20982 of, and to repeal and add Section 20980.1 of, the Government Code, relating to public employees, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1985 Filed with Secretary of State September 27, 1985]

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

SECTION 1. Section 9356.21 of the Government Code is amended to read:

9356.21. Each member or former member who retired on or after December 1, 1980, who has 10 years of credited service in this system on or before December 31, 1985, shall receive credit for active service of not less than one year in the armed forces of the United States, or continuous active service of not less than one year in the Merchant Marine of the United States prior to January 1, 1950, which service was rendered prior to assuming for the first time a state office for which membership in the system was elective and terminated with a discharge under other than dishonorable conditions; provided, however, that the credit to be given for that service shall be on the basis of one year of credit for each five years of credited service in this system, but shall not exceed a total of four years regardless of the number of years of either that service or subsequent service in this system. However, any member or retired former member electing to receive a credit for such military service shall contribute in lump sum or by installments over such period and subject to such minimum payments as may be prescribed by regulations of the board, at the member's contribution rate at the time of election or the retired person's contribution rate at retirement applied, respectively, to the average annual compensation of the member over the three years immediately preceding the election or the average annual compensation of the retired person over the three years immediately preceding retirement.

Military service credit shall not be granted for any military service to which any of the following apply:

(a) In any period for which credit is otherwise given under Section 9356.2.

(b) For which service credit was received under any other retirement system.

(c) To the extent that total credit under this section would exceed four years.

An election by a member with respect to military service under this section may be made only while the member is in this system and

an election by a member or retired former member shall be made before July 1, 1986.

Any resulting increase in the allowance of a retired former member shall be applied prospectively only.

SEC. 2. Section 20890 of the Government Code is amended to read:

20890. A member is absent on military service when he is absent from state service by reason of service with the armed forces or the Merchant Marine of the United States, or on ships operated by or for the United States government, either during a war involving the United States as a belligerent or in any other national emergency or in time of peace if he is drafted for such service by the United States government, and during any period of rehabilitation afforded by the United States government other than a period of rehabilitation for purely educational purposes, and for six months thereafter; provided, that an absence on military service of a member who has voluntarily requested or hereafter so requests or agrees to an extension of his original term of enlistment, service, or tour of duty shall be deemed terminated on January 1, 1958, or upon expiration of six months following the date of termination of such original term of enlistment, service, or tour of duty, whichever is later. A member shall also be considered as having been absent on military service if he served in the military service during all or part of the period of September 16, 1940, to December 7, 1941.

For the purposes of this section a war involving the United States as a belligerent exists: (a) whenever Congress has declared war and peace has not been formally restored; (b) whenever the United States is engaged in active military operations against any foreign power, whether or not war has been formally declared; or (c) whenever the United States is assisting the United Nations, in actions involving the use of armed force, to maintain or restore international peace and security.

This section does not apply to persons absent from state service by reason of service after January 1, 1950, with the Merchant Marine of the United States, or on ships operated by or for the United States government, or with the Federal Bureau of Investigation, and who have not received credit for that service prior to the effective date of the amendment to this section at the 1985–86 Regular Session of the Legislature.

SEC. 3. Section 20980 of the Government Code is amended to read:

20980. Every patrol member subject to Section 21252.01 shall be retired on the first day of the calendar month succeeding that in which he attains age 60.

Any patrol member over the age of 60 on the effective date of the amendment to this section enacted at the 1968 Regular Session of the Legislature shall be retired on the first day of the calendar month following the effective date of that amendment.

SEC. 4. Section 20980.1 of the Government Code is repealed.

SEC. 5. Section 20980.1 is added to the Government Code, to read:

20980.1. Notwithstanding any other provision of law, a local contracting agency may amend its contract to fix a mandatory retirement age for local safety members attaining the age of 60 when the agency also has established that the age of a safety member is a bona fide occupational qualification reasonably necessary to the normal operation of the principal services provided by safety members.

SEC. 6. Section 20982 of the Government Code is repealed.

SEC. 7. Section 22754 of the Government Code is amended to read:

22754. As used in this part the following definitions, unless the context otherwise requires, shall govern the interpretation of terms:

(a) "Board" means the Board of Administration of the Public Employees' Retirement System.

(b) "Employee" means any officer or employee of the State of California or of any agency, department, authority, or instrumentality of the state including the University of California, or any officer or employee who is a local or school member of the Public Employees' Retirement System employed by a contracting agency which has elected to be or otherwise has become subject to this part, or who is a member or retirant of the State Teachers' Retirement System employed by an employer who has elected to become subject to this part, except persons employed on an intermittent, irregular or less than half time basis, or employees similarly situated, or employees in respect to whom contributions by the state for any type of plan or program offering prepaid hospital and medical care are otherwise authorized by law.

(c) "Carrier" means a private insurance company holding a valid outstanding certificate of authority from the Insurance Commissioner of the state, a medical society or other medical group, a nonprofit hospital service plan qualifying under Chapter 11A (commencing with Section 11491) of Part 2 of Division 2 of the Insurance Code, or nonprofit membership corporation lawfully operating under Section 9200 or Section 9201 of the Corporations Code, or a health care service plan as defined under subdivision (f) of Section 1345 of the Health and Safety Code, or a health maintenance organization approved under Title XIII of the federal Public Health Services Act, which is lawfully engaged in providing, arranging, paying for, or reimbursing the cost of personal health services under insurance policies or contracts, medical and hospital service agreements, membership contracts, or the like, in consideration of premiums or other periodic charges payable to it.

(d) "Health benefits plan" means any program or entity that provides, arranges, pays for, or reimburses the cost of health benefits.

(e) "Annuitant" means:

(1) Any person who has retired within 120 days of separation from employment and who receives any retirement allowance under any

state or University of California retirement system to which the state was a contributing party.

(2) A family member receiving an allowance as the survivor of an annuitant who has retired as provided in paragraph (1), or as the survivor of a deceased employee under Section 21364, 21365.5 or 21382 or similar provisions of any other state retirement system.

(3) Any person who, at the time of separation from employment because of disability, was enrolled in a health benefits plan and who enters a rehabilitation program under Section 139.5 of the Labor Code and retires for disability within 120 days of termination of the rehabilitation program.

(f) "Family member" means an employee's or annuitant's spouse and any unmarried child (including an adopted child, a stepchild, or recognized natural child who lives with the employee or annuitant in a regular parent-child relationship). The board shall, by regulation, prescribe age limits and other conditions and limitations pertaining to unmarried children.

(g) "Contracting agency" means any contracting agency as defined in Section 20010, any county subject to the County Employees' Retirement Law of 1937 (Chapter 3 (commencing with Section 31450) of Part 3 of Division 4 of Title 3), and any school district, county board of education, personnel commission of a school district or a county superintendent of schools.

(h) "Employer" means the state, any contracting agency employing an employee, and any agency which has elected to become subject to this part pursuant to Section 22856.

SEC. 8. Section 22790 of the Government Code is amended to read:

22790. The board may contract with carriers for health benefits plans for employees and annuitants. The plans may include hospital benefits, surgical benefits, in hospital medical benefits, outpatient benefits, and obstetrical benefits, and benefits offered by a bona fide church, sect, denomination, or organization whose principles include healing entirely by prayer or spiritual means. The board may contract with health maintenance organizations approved under Title XIII of the federal Public Health Services Act.

Notwithstanding any other provision of this part, the board also may contract with health plans offering unique or specialized health services.

The board shall approve any employee association health benefits plan which was approved by the board in the 1984–85 contract year, provided the plan continues to meet the minimum standards prescribed by the board.

SEC. 9. Section 22857 is added to the Government Code, to read:

22857. A contracting agency other than a school district, county board of education, personnel commission of a school district, or a county superintendent of schools which has elected to be subject to this part:

(a) Shall by resolution establish the employer contribution for

employees and the employer contribution for annuitants. The resolution shall be filed with the board and the contribution shall be effective at such time as is provided in board regulations.

(b) May, notwithstanding Section 22825, establish a lesser monthly employer contribution for annuitants than for employees, provided that the monthly contribution for annuitants shall be annually increased by an amount not less than 5 percent of the monthly employee contribution for employees, until such time as the employer contribution for annuitants equals the employer contribution paid for employees.

This subdivision shall only apply to agencies who first become subject to this part on or after January 1, 1986.

SEC. 10. Section 22857.1 is added to the Government Code, to read:

22857.1. A school district or county board of education, personnel commission of a school district, or a county superintendent of schools which elects, on or after January 1, 1986, to be subject to this part:

(a) Shall, by resolution, establish the employer contribution for employees and the employer contribution for annuitants. The ratio of the amount paid initially under this section by the employer for annuitants to the amount paid initially under this section by the employer for employees shall be at least equal to the ratio of the amount of health benefits premiums paid by the employer for annuitants at the time of the election to the amount of health benefits premiums paid by the employer for employees at the time of the election. The resolution shall be filed with the board and the contribution shall be effective at such time as is provided in board regulation.

(b) May, notwithstanding Section 22825, establish a lesser monthly employer contribution for annuitants than for employees, provided that the monthly contribution for annuitants shall be annually increased by an amount not less than 5 percent of the monthly employee contribution for employees, until such time as the employer contribution for annuitants equals the employer contribution paid for employees.

SEC. 11. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

Chapter 1759 of the Statutes of 1984 authorized the granting of service credit in the Legislators' Retirement System for military service, as specified, if the member so elects before January 1, 1986. In order that the revision effected by this act of the conditions upon that authorization may be implemented prior to that deadline, it is necessary that this act take effect immediately. Also, in order that certain recent federal court decisions relating to statutory mandatory retirement ages may be implemented by this act at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 1068

An act to add Section 4609 to the Civil Code, to add Section 11165.3 to the Penal Code, and to amend Sections 16507, 18964, 18964.1, 18964.5, 18964.6, and 18964.7 of the Welfare and Institutions Code, relating to children, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1985 Filed with Secretary of State September 27, 1985]

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

SECTION 1. Section 4609 is added to the Civil Code, to read:

4609. In accordance with Section 16507 of the Welfare and Institutions Code, family reunification services shall not be ordered as part of a child custody or visitation rights proceeding brought under this part.

SEC. 2. Section 11165.3 is added to the Penal Code, to read:

11165.3. (a) Notwithstanding the provisions of subparagraph (B) of paragraph (2) of subdivision (b) of Section 11165, on and after the effective date of this section, instead of the meaning given in that subparagraph sexual exploitation refers to any person who knowingly promotes, aids, or assists, employs, uses, persuades, induces, or coerces a child, or any person responsible for a child's welfare who knowingly permits or encourages a child to engage in, or assist others to engage in, prostitution or a live performance involving obscene sexual conduct or to either pose or model alone or with others for purposes of preparing a film, photograph, negative, slide, drawing, painting, or other pictorial depiction, involving obscene sexual conduct. For the purpose of this section, "person responsible for a child's welfare" means a parent, guardian, foster parent, or a licensed administrator, or employee of a public or private residential home, residential school, or other residential institution.

(b) Notwithstanding the provisions of Section 11165, on and after the effective date of this section, the definition of abuse in out-of-home care made in that section is applicable to acts of an administrator or an employer of a public or private home, school, or institution only when the home, school, or institution is a residential institution. The definition is not applicable to an agency.

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.

Family reunification services shall only be provided when a child has been placed in foster care.

SEC. 4. Section 18964 of the Welfare and Institutions Code is amended to read:

18964. The Office of Child Abuse Prevention shall contract for the operation of eight pilot projects to be based on in-home care, which shall be designed to avoid the out-of-home placement of abused or neglected children. These programs shall do all of the following:

(a) Provide in-home services utilizing licensed therapists who have at least a masters degree or the equivalent combination of education and experience.

(b) Provide intensive supplemental training to any staff therapist concerning therapeutic techniques local resources, and assure that the therapist has received the intensive supplemental training specified in Section 18964.5, before assigning any client to the therapist.

(c) Limit the number of families assigned to a therapist at any given time to a maximum of three, except that if a therapist team is utilized, the maximum number of families assigned to such a team shall be six at any given time.

(d) Offer services only to families where it appears that unless the program's services are provided, it will be necessary to place one or more children out of the home.

(e) Have the therapists assigned to a family, be on call and available to the family 24 hours a day, for a period appropriate to the family's needs, which is ordinarily a period of four to six weeks.

(f) Keep records, conduct internal evaluation, and cooperate with external evaluation as directed by the Office of Child Abuse Prevention.

To qualify for continued funding each agency shall meet all of the following annual minimum performance goals:

(1) Each agency shall demonstrate a success rate of 75 percent in avoiding out-of-home placement six months after intervention, with increased success rates in subsequent years.

(2) Each agency shall submit a detailed budget and annual audit.

(3) Each agency shall submit a letter of agreement from the local county department conducting the duties of the probation officer concerning dependent children as described in Section 300, indicating continued support and cooperation with the funded agency.

These pilot projects shall provide services to children who are within the jurisdiction of the juvenile court pursuant to Section 330,

or who are dependent children not taken from the physical custody of their parents or guardian pursuant to Section 364, or who are dependent children removed from the physical custody of their parents or guardian pursuant to Section 361. The caseworker may return a dependent child removed from the home pursuant to Section 361, with appropriate pilot project services, in an appropriate case, pursuant to a new court order which may be granted on an ex parte basis. Each family receiving services shall have an open and active emergency response or family maintenance care plan.

Not more than one pilot project shall be located in any one county. At least one pilot project shall be in a rural county. For the purpose of this section, a rural county is a county with a population of less than 125,000 persons. Services to minority populations shall be reflected in the funding of programs. Each agency applying for funding shall submit with its application, a letter from the local county department conducting the duties of the probation department concerning dependent children described in Section 300, indicating a willingness to work cooperatively with the applicant agency and its proposed project. The selection of agencies to be funded shall be determined by the Office of Child Abuse Prevention. The projects shall be funded at an average level of not more than one hundred fifty thousand dollars ($150,000) per year, less the allowable department administrative costs described in Section 18969.

This section shall remain in effect only until January 1, 1989, and on that date is repealed, unless a later enacted statute chaptered prior to that date extends or deletes that date.

SEC. 5. Section 18964.1 of the Welfare and Institutions Code is amended to read:

18964.1. The Office of Child Abuse Prevention shall develop specific criteria to contract for the operation of three pilot projects, designed to maximize the safety, security, comfort, and quality of life of children aged 14 or under who are in self-care during hours of parental employment or other unavailability, by training families in how to accomplish these goals, and by other techniques designed to accomplish these goals that are consistent with the requests for proposals issued pursuant to Section 18964.5. Not more than one pilot project shall be located in any one county. At least one pilot project shall be located in a rural county. For the purpose of this section, rural counties are those having populations of under 125,000 persons. Geographic equity throughout the state shall be reflected in the funding of programs.

Each pilot project shall provide training to families who use self-care with young children. The selection of agencies to be funded shall be determined by the Office of Child Abuse Prevention. The projects shall be funded at an average level of not more than seventy-five thousand dollars ($75,000) per year, less allowable the departmental administrative costs described in Section 18969.

This section shall remain in effect only until January 1, 1989, and on that date is repealed, unless a later enacted statute chaptered

prior to that date extends or deletes that date.

SEC. 6. Section 18964.5 of the Welfare and Institutions Code is amended to read:

18964.5. Contracts for pilot projects established under Sections 18964 and 18964.1 shall be entered into utilizing a competitive bid basis. Contracts may only be entered into by public or private nonprofit agencies, except for child protection agencies as defined in subdivision (k) of Section 11165 of the Penal Code.

Projects shall be evaluated through internal and external evaluation processes. The total cost of the external evaluation of the projects under both Sections 18964 and 18964.1 shall not exceed two hundred twenty-five thousand dollars ($225,000). A contract or contracts for evaluation shall be entered into utilizing a competitive bid basis, with no restriction on the categories of agencies that may bid. Requests for evaluation proposals shall be issued within 120 days of the effective date of the addition of this section, as enacted, during the 1985–86 Regular Session. Requests for pilot project proposals shall be issued within 90 days of the date the requests for evaluation proposals are issued.

The request for proposals for the pilot projects established under Section 18964 shall require that applicants identify a plan for acquiring and presenting intensive supplemental training concerning therapeutic techniques and related issues to any staff therapist of a project established under Section 18964 before any client is assigned to the therapist. This requirement recognizes that quality training is needed for the successful completion of the evaluation of these projects. The request for proposals shall also require that applicants identify a plan for continuing education of the staff therapists. The initial training shall be provided, and the continuing education may be provided, by individuals with recognized expertise in the development, establishment, and administration of in-home care programs similar to those described in Section 18964. Training may be provided by the applicant, with the review and approval of the Office of Child Abuse Prevention.

Agencies selected for funding shall receive funds in a timely manner, including an advance of funds when necessary to initiate a project.

This section shall remain in effect only until January 1, 1989, and as of that date is repealed, unless a later enacted statute chaptered prior to that date, extends or deletes that date.

SEC. 7. Section 18964.6 of the Welfare and Institutions Code is amended to read:

18964.6. The Office of Child Abuse Prevention shall develop a system of written guidelines for funding and a system of performance standards for monitoring the effectiveness of the pilot programs. The standards shall consist of measurable objectives, including, but not limited to, a measure of success at avoiding the need for out-of-home placement and the cessation of abuse, neglect, or sexual exploitation. Each pilot project shall be evaluated in terms

of these standards. The effectiveness of programs of pilot projects funded pursuant to Sections 18964 and 18964.1 shall be evaluated by a public institution or private nonprofit agency or other qualified organization selected by the department. Funding for the evaluation of these pilot projects shall be provided from appropriations to the State Children's Trust Fund.

This section shall remain in effect only until January 1, 1989, and as of that date is repealed, unless a later enacted statute chaptered prior to that date, extends or deletes that date.

SEC. 8. Section 18964.7 of the Welfare and Institutions Code is amended to read:

18964.7. During the 1987–88 fiscal year, the Auditor General shall evaluate compliance with the competitive process for contracting with agencies pursuant to Section 18964.5, including timely distribution of funds. In addition, the Auditor General shall evaluate compliance with Section 18964.6. The Auditor General shall report to the Legislature on his or her findings no later than December 31, 1987.

This section shall remain in effect only until January 1, 1989, and as of that date is repealed, unless a later enacted statute chaptered prior to that date extends or deletes that date.

SEC. 9. No reimbursement is required by this act pursuant to 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 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. 10. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to prevent the loss of federal funds under the federal child abuse and neglect grant program, it is necessary that this act go into immediate effect. In order to clarify the authority of the Office of Child Abuse Prevention to conduct competitive bidding for necessary pilot projects on a statewide basis, and to ensure proper training for the staff therapists of the projects established under Section 18964 of the Welfare and Institutions Code without delaying the commencement of these important projects, it also is necessary that this act go into immediate effect. In order to prevent ambiguity in provisions relating to child welfare services, and in order to avoid inappropriate ordering of family reunification services, it is necessary that this act go into immediate effect.

CHAPTER 1069

An act to amend Sections 4701 and 4801.6 of, to add Section 4357.5 to, and to repeal Section 4801.6 of, the Civil Code, and to amend Section 11475.1 of the Welfare and Institutions Code, relating to support.

[Approved by Governor September 27, 1985. Filed with Secretary of State September 27, 1985]

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

SECTION 1. Section 4357.5 is added to the Civil Code, to read:

4357.5. (a) In any action for child support that has been filed and served, the court may, without a hearing, make an order requiring a parent or parents to pay for the support, maintenance, and education of his or her minor child or children during the pendency of that action, pursuant to this section, in an amount as required by Section 4722 or, if the income of the obligated parent or parents is unknown to the applicant, then the minimum amount of support as provided in Section 11452 of the Welfare and Institutions Code.

An order under this section shall be known as an expedited support order.

As used in this section, "income and expense declaration" means the form for an income and expense declaration in family law matters adopted by the Judicial Council.

(b) An expedited support order shall be made by the superior court upon the filing of an application requesting that relief, setting forth the minimum amount the obligated parent or parents are required to pay pursuant to Section 4722 or pursuant to Section 11452 of the Welfare and Institutions Code, an income and expense declaration for both parents completed by the applicant, a worksheet setting forth the basis of the required amount and a proposed expedited support order.

Except in the event of a hearing concerning the application for an expedited support order, the amount of the expedited support order shall be the minimum amount the obligated parent is required to pay as set forth in the application. An expedited support order shall be effective 30 days after service on the obligated parent of the application, income and expense declarations, worksheet, a notice of consequences of failure to file a response, the proposed order, three blank responses to the application for an expedited support order and notice of hearing forms, and three blank income and expense declaration forms.

The expedited support order shall be effective on the obligated parent, without further action by the court, unless there is a response to the application for an expedited support order.

(c) Service on the obligated parent of the application and other required documents as set forth in subdivision (b) shall be by

personal service or by any method available under Sections 415.10 to 415.40, inclusive, of the Code of Civil Procedure.

(d) The response to the application for the proposed expedited support order and the obligated parent's income and expense declaration may be filed with the court at any time prior to the effective date of the expedited support order and, on filing, shall be served upon the applicant by any method by which a response to a notice of motion may be served. The response to the application for an expedited support order shall state the objections of the obligated parent to the proposed expedited support order. The simultaneous filing of the response to the application for an expedited support order and the obligated parent's income and expense declaration shall stay the effective date of the expedited support order. No fee shall be charged for, or in connection with, the filing of the response.

(e) The obligated parent shall cause the court clerk to, and the court clerk shall, set a hearing on the application for the expedited support order not less than 20 nor more than 30 days after the filing of the response to the application for the expedited support order and income and expense declaration. The obligated parent shall give notice of the hearing to the other parties or their counsel by first-class mail no less than 15 days before the hearing. If no such notice is given, expedited support order shall become effective as provided in subdivision (b) subject to the relief available to the responding party as provided by Section 473 of the Code of Civil Procedure or any other available relief whether in law or in equity.

(f) An application for the expedited support order shall confer jurisdiction on the court to hear only the issue of support of the minor child or children. Nothing in this section shall prevent either party from bringing before the court at the hearing other separately noticed issues otherwise relevant and proper to the action in which the application for the expedited support order has been filed.

(g) At the hearing to establish a support order, all parties who are parents of the child or children who are the subject of the action shall produce copies of their most recently filed state income tax returns. A tax return so submitted may be reviewed by the other parties and a party also may be examined by the other parties as to the contents of any such return. A party who fails to submit documents to the court as required by this section shall not be granted the relief that he or she has requested. However, the court may grant the requested relief if a party submits a declaration under penalty of perjury that (1) no such documents exist, or (2) in the case of a tax return, it cannot be produced, but a copy has been requested from the Franchise Tax Board.

(h) The court shall order an amount of support in accordance with Chapter 2 (commencing with Section 4720) of Title 5 of this part.

(i) When there is a hearing, the resulting order shall be called an order after hearing. The order after hearing shall become effective no more than 30 days after the filing of the response to the application for the expedited support order and may be given

retroactive effect to the date of the filing of the application.

(j) An order entered under this section may be modified at any time on the same basis as any other order for child support.

(k) The Judicial Council shall prepare all forms necessary to give effect to this section.

SEC. 2. Section 4701 of the Civil Code, as amended by Section 1 of Chapter 1463 of the Statutes of 1984, is amended to read:

4701. (a) In any proceeding where the court has ordered either or both parents to pay any amount for the support of a minor child, the court may order either parent or both parents to assign to either the person to whom support has been ordered to have been paid or the county officer designated by the court to receive the payment, that portion of salary or wages of either parent due or to be due in the future as will be sufficient to pay the amount ordered by the court for the support, maintenance, and education of the minor child. The order shall operate as an assignment and shall be binding upon any existing or future employer of the defaulting parent upon whom a copy of the order is served. Any such order may be modified or revoked at any time by the court.

(b) (1) Notwithstanding the provisions of subdivision (a), in any proceeding where the court has ordered either or both parents to pay any amount for the support of a minor child, upon a petition signed under penalty of perjury by the person or county officer to whom support has been ordered to have been paid that the parent so ordered is in arrears in payment in a sum equal to the amount of one month of the payment within the 24-month period immediately preceding filing of the petition with the court, the court shall issue without notice to the parent ordered to pay support an order requiring the parent ordered to pay support to assign either to the person to whom support has been ordered to have been paid or to a county officer designated by the court to receive the payment, that portion of the salary or wages of the parent due or to be due in the future as will be sufficient to pay the amount ordered by the court for the support, maintenance, and education of the minor child. Such an order shall operate as an assignment and shall be binding upon any existing or future employer of the parent ordered to pay support upon whom a copy of the order is served.

The petition shall state the number of previous times a petition for assignment has been filed pursuant to this subdivision and the county in which any such petition was filed.

(2) No petition shall be accepted for filing pursuant to this subdivision unless it contains a declaration stating that the parent, or any other person designated pursuant to subdivision (a), to whom support has been ordered to be paid has given the parent ordered to pay support a written notice of his or her intent to seek a wage assignment in the event of a default in support payments and that the notice was transmitted by certified mail or personally served at least 15 days prior to the date of the filing of the petition. A written notice of intent to seek a wage assignment may be given at the time

of filing a petition or complaint for support or at any time subsequent thereto. In addition to any other penalty provided by law, the filing of a petition with knowledge of the falsity of the declaration of notice is punishable as a contempt pursuant to Section 1209 of the Code of Civil Procedure. The parent ordered to pay support may at any time waive the written notice required by this subdivision.

(3) The parent to whom support has been ordered to be paid shall notify the court and the employer of the parent ordered to pay support, by any form of mailing requiring a return receipt, of any change of address within a reasonable period of time after any such change. In instances in which payments have been ordered to be made to a county officer designated by the court, the parent to whom support has been ordered to be paid shall notify the court and the county officer, by any form of mail requiring a return receipt, of any address change within a reasonable period of time after any such change. If the employer or county officer is unable to deliver payments under the assignment for a period of six months due to the failure of the person to whom support has been ordered to be paid to notify the employer or county officer of a change of address, the employer or county officer shall not make any further payments under the assignment and shall return all undeliverable payments to the employee.

(4) An assignment order made pursuant to this subdivision shall not become effective until 10 days after service of the order on an employer.

(5) Within 10 days of service of an assignment order issued pursuant to this subdivision on an employer, the employer shall deliver a copy of the assignment order to the parent ordered to pay support.

(6) A parent alleged to be in default may move to quash an assignment order issued under this subdivision within 10 days after service on the parent of notice of the assignment order by his or her employer if the parent states under oath that a default in the amount alleged in the petition has not occurred within the 24-month period referred to in the petition or that the amount is not owed. The motion and notice of motion to quash the assignment order shall be filed with the court issuing the assignment order within 10 days after service on the parent of notice of the order by the employer. The clerk of the court shall set the motion to quash for hearing within not less than 15 days, nor more than 20 days, after receipt of the notice of motion and shall mail to the petitioner at the return address contained in the petition a copy of the notice of motion by first-class mail within five days after receipt of the notice of motion.

(7) The employer shall continue to withhold and forward support as ordered by the court until served with notice that the motion to quash under this subdivision has been granted.

(8) The due date of support payments under this subdivision shall be the date specifically stated in the order of support or if no date is stated in the support order, then it shall be the last day of the

month in which the support payment is to be paid.

(9) For purposes of this subdivision, arrearages of payment shall be computed on the basis of the payments owed and unpaid on the date that the parent ordered to pay support has been given notice of the order of assignment and the fact that the parent ordered to pay support may have subsequently paid the arrearages shall not relieve the court of its duty under this subdivision to order the assignment.

(10) Upon petition by the parent ordered to pay support, the court shall terminate an order of assignment entered pursuant to this subdivision upon proof of full payment pursuant to the wage assignment for the appropriate period of time, as follows:

(A) An assignment pursuant to this subdivision pursuant to an initial petition shall continue until support payments are current.

(B) An assignment under this subdivision pursuant to a second petition filed within 24 months shall continue for 24 months.

(C) An assignment under this subdivision pursuant to a third or subsequent petition filed within 48 months shall not be terminated unless upon a petition by the parent ordered to pay support the court determines that there is good cause to terminate the assignment.

Upon petition by the parent ordered to pay support, the court shall terminate an order of assignment entered pursuant to this subdivision if the employer or county officer has been unable to deliver payments under the assignment for a period of six months due to the failure of the person to whom support has been ordered to be paid to notify the employer or county officer of a change of address.

(c) The Judicial Council shall prescribe forms for the orders for wage assignment required or authorized by this section. The employer may deduct from the salary or wages of the employee the sum of one dollar ($1) for each payment made pursuant to the order. Any such assignment made pursuant to court order shall have priority as against any attachment, execution, or other assignment, unless otherwise ordered by the court.

(d) The employer shall cooperate with and provide relevant employment information to the district attorney for the purpose of enforcing the child support obligation.

(e) Orders for wage assignment required or authorized by this section shall include a requirement that the parent ordered to pay support notify the parent or other person designated to receive payment of any change of employment and of the name and address of his or her new employer.

(f) No employer shall use any assignment authorized by this section as grounds for the dismissal of that employee.

(g) As used in this section "employer" includes the United States government and any public entity as defined in Section 811.2 of the Government Code.

(h) On declaration or affidavit of the parent to whom support has been ordered to be paid to the court that: (1) the parent ordered to

make support payments is in default in the payment in the amount specified in subdivision (b), and (2) the whereabouts of the defaulting parent or the identity of his or her employer are unknown to the parent to whom support has been ordered to be paid, the district attorney shall contact the central registry maintained by the Department of Justice in the manner prescribed in Section 11478.5 of the Welfare and Institutions Code, and upon receiving the requested information, notify the court of the last known address of the absent parent and the name and address of the absent parent's last known employer. The court shall then order the defaulting parent to make support payments pursuant to subdivision (b).

(i) Nothing in this section shall limit the authority of the district attorney to utilize any and all civil and criminal remedies to enforce child support obligations regardless of whether or not the custodial parent receives welfare moneys.

(j) The provisions of this section apply to the money and benefits described in Sections 704.110 and 704.113 of the Code of Civil Procedure to the extent that the money and benefits are subject to a wage assignment for support under Chapter 4 (commencing with Section 703.010) of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure.

(k) Notwithstanding any other provision of law, when a certified copy of any order of assignment is served on any public entity described in Section 704.110 of the Code of Civil Procedure other than the United States government, that entity shall comply with any request for a return of employee contributions by an employee named in the order by delivering the contributions to the clerk of the court from which the order issued, unless the entity has received a certified copy of an order terminating the order of assignment. Upon receipt of moneys pursuant to this section, the clerk of the court, within 10 days, shall send written notice of that fact to the parties, and any agency through whom payments have been ordered under Section 4702. These moneys shall be subject to any procedure available to enforce an order for child support, but if no enforcement procedure is commenced after 30 days have elapsed from the date the notice of receipt is sent, the clerk shall, upon request, return the moneys to the public entity that delivered the moneys to the court unless the public entity has informed the court in writing that the moneys shall be released to the defaulting parent. A court shall not directly or indirectly condition the issuance, modification, or termination of, or condition the terms or conditions of, any order for the support of a minor child upon the issuance of such a request by such an employee.

(*l*) Notwithstanding subdivisions (a) and (b), in any case where support is ordered to be paid through the county officer designated by the court for those purposes, or where the district attorney requests, the court shall order a wage assignment pursuant to this section.

(m) In any case where support for a minor child is ordered to be

paid through the county officer designated by the court for that purpose, and where support is being paid on behalf of a minor child not receiving public assistance pursuant to the Family Economic Security Act of 1982 (Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code), the county shall forward the support received to the minor child's custodial parent within seven days of receipt.

(n) This section shall remain in effect only until January 1, 1987, and as of that date is repealed.

SEC. 3. Section 4701 of the Civil Code, as amended by Section 1.5 of Chapter 1463 of the Statutes of 1984, is amended to read:

4701. (a) In any proceeding where the court has ordered either or both parents to pay any amount for the support of a minor child, the court may order either parent or both parents to assign to either the person to whom support has been ordered to have been paid or the county officer designated by the court to receive the payment, that portion of salary or wages of either parent due or to be due in the future as will be sufficient to pay the amount ordered by the court for the support, maintenance, and education of the minor child. The order shall operate as an assignment and shall be binding upon any existing or future employer of the defaulting parent upon whom a copy of the order is served. Any such order may be modified or revoked at any time by the court.

(b) (1) Notwithstanding the provisions of subdivision (a), in any proceeding where the court has ordered either or both parents to pay any amount for the support of a minor child, upon a petition signed under penalty of perjury by the person or county officer to whom support has been ordered to have been paid that the parent so ordered is in arrears in payment in a sum equal to the amount of one month of the payment within the 24-month period immediately preceding filing of the petition with the court, the court shall issue without notice to the parent ordered to pay support an order requiring the parent ordered to pay support to assign either to the person to whom support has been ordered to have been paid or to a county officer designated by the court to receive the payment, that portion of the salary or wages of the parent due or to be due in the future as will be sufficient to pay the amount ordered by the court for the support, maintenance, and education of the minor child. Such an order shall operate as an assignment and shall be binding upon any existing or future employer of the parent ordered to pay support upon whom a copy of the order is served.

The petition shall state the number of previous times a petition for assignment has been filed pursuant to this subdivision and the county in which any such petition was filed.

(2) No petition shall be accepted for filing pursuant to this subdivision unless it contains a declaration stating that the parent, or any other person designated pursuant to subdivision (a), to whom support has been ordered to be paid has given the parent ordered to pay support a written notice of his or her intent to seek a wage

assignment in the event of a default in support payments and that the notice was transmitted by certified mail or personally served at least 15 days prior to the date of the filing of the petition. A written notice of intent to seek a wage assignment may be given at the time of filing a petition or complaint for support or at any time subsequent thereto. In addition to any other penalty provided by law, the filing of a petition with knowledge of the falsity of the declaration of notice is punishable as a contempt pursuant to Section 1209 of the Code of Civil Procedure. The parent ordered to pay support may at any time waive the written notice required by this subdivision.

(3) The parent to whom support has been ordered to be paid shall notify the court and the employer of the parent ordered to pay support, by any form of mailing requiring a return receipt, of any change of address within a reasonable period of time after any such change. In instances in which payments have been ordered to be made to a county officer designated by the court, the parent to whom support has been ordered to be paid shall notify the court and the county officer, by any form of mail requiring a return receipt, of any address change within a reasonable period of time after any such change. If the employer or county officer is unable to deliver payments under the assignment for a period of three months due to the failure of the person to whom support has been ordered to be paid to notify the employer or county officer of a change of address, the employer or county officer shall not make any further payments under the assignment and shall return all undeliverable payments to the employee.

(4) An assignment order made pursuant to this subdivision shall not become effective until 10 days after service of the order on an employer.

(5) Within 10 days of service of an assignment order issued pursuant to this subdivision on an employer, the employer shall deliver a copy of the assignment order to the parent ordered to pay support.

(6) A parent alleged to be in default may move to quash an assignment order issued under this subdivision within 10 days after service on the parent of notice of the assignment order by his or her employer if the parent states under oath that a default in the amount alleged in the petition has not occurred within the 24-month period referred to in the petition or that the amount is not owed. The motion and notice of motion to quash the assignment order shall be filed with the court issuing the assignment order within 10 days after service on the parent of notice of the order by the employer. The clerk of the court shall set the motion to quash for hearing within not less than 15 days, nor more than 20 days, after receipt of the notice of motion and shall mail to the petitioner at the return address contained in the petition a copy of the notice of motion by first-class mail within five days after receipt of the notice of motion.

(7) The employer shall continue to withhold and forward support as ordered by the court until served with notice that the motion to

quash under this subdivision has been granted.

(8) The due date of support payments under this subdivision shall be the date specifically stated in the order of support or if no date is stated in the support order, then it shall be the last day of the month in which the support payment is to be paid.

(9) For purposes of this subdivision, arrearages of payment shall be computed on the basis of the payments owed and unpaid on the date that the parent ordered to pay support has been given notice of the order of assignment and the fact that the parent ordered to pay support may have subsequently paid the arrearages shall not relieve the court of its duty under this subdivision to order the assignment.

(10) Upon petition by the parent ordered to pay support, the court shall terminate an order of assignment entered pursuant to this subdivision upon proof of full payment pursuant to the wage assignment for the appropriate period of time, as follows:

(A) An assignment pursuant to this subdivision pursuant to an initial petition shall continue until support payments are current.

(B) An assignment under this subdivision pursuant to a second petition filed within 24 months shall continue for 24 months.

(C) An assignment under this subdivision pursuant to a third or subsequent petition filed within 48 months shall not be terminated unless upon a petition by the parent ordered to pay support the court determines that there is good cause to terminate the assignment.

Upon petition by the parent ordered to pay support, the court shall terminate an order of assignment entered pursuant to this subdivision if the employer or county officer has been unable to deliver payments under the assignment for a period of three months due to the failure of the person to whom support has been ordered to be paid to notify the employer or county officer of a change of address.

(c) The Judicial Council shall prescribe forms for the orders for wage assignment required or authorized by this section. The employer may deduct from the salary or wages of the employee the sum of one dollar ($1) for each payment made pursuant to the order. Any such assignment made pursuant to court order shall have priority as against any attachment, execution, or other assignment, unless otherwise ordered by the court.

(d) The employer shall cooperate with and provide relevant employment information to the district attorney for the purpose of enforcing the child support obligation.

(e) Orders for wage assignment required or authorized by the section shall include a requirement that the parent ordered to pay support notify the parent or other person designated to receive payment of any change of employment and of the name and address of his or her new employer.

(f) No employer shall use any assignment authorized by this section as grounds for the dismissal of that employee.

(g) As used in this section "employer" includes the United States

government and any public entity as defined in Section 811.2 of the Government Code.

(h) On declaration or affidavit of the parent to whom support has been ordered to be paid to the court that: (1) the parent ordered to make support payments is in default in the payment in the amount specified in subdivision (b), and (2) the whereabouts of the defaulting parent or the identity of his or her employer are unknown to the parent to whom support has been ordered to be paid, the district attorney shall contact the central registry maintained by the Department of Justice in the manner prescribed in Section 11478.5 of the Welfare and Institutions Code, and upon receiving the requested information, notify the court of the last known address of the absent parent and the name and address of the absent parent's last known employer. The court shall then order the defaulting parent to make support payments pursuant to subdivision (b).

(i) Nothing in this section shall limit the authority of the district attorney to utilize any and all civil and criminal remedies to enforce child support obligations regardless of whether or not the custodial parent receives welfare moneys.

(j) The provisions of this section apply to the money and benefits described in Sections 704.110 and 704.113 of the Code of Civil Procedure to the extent that the money and benefits are subject to a wage assignment for support under Chapter 4 (commencing with Section 703.010) of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure.

(k) Notwithstanding any other provision of law, when a certified copy of any order of assignment is served on any public entity described in Section 704.110 of the Code of Civil Procedure other than the United States government, that entity shall comply with any request for a return of employee contributions by an employee named in that order by delivering the contributions to the clerk of the court from which the order issued, unless the entity has received a certified copy of an order terminating the order of assignment. Upon receipt of moneys pursuant to this section, the clerk of the court, within 10 days, shall send written notice of that fact to the parties, and any agency through whom payments have been ordered under Section 4702. These moneys shall be subject to any procedure available to enforce an order for child support, but if no enforcement procedure is commenced after 30 days have elapsed from the date the notice of receipt is sent, the clerk shall, upon request, return the moneys to the public entity that delivered the moneys to the court unless the public entity has informed the court in writing that the moneys shall be released to the defaulting parent. A court shall not directly or indirectly condition the issuance, modification, or termination of, or condition the terms or conditions of, any order for the support of a minor child upon the issuance of such a request by such an employee.

(*l*) Notwithstanding subdivisions (a) and (b) in any case where support is ordered to be paid through the county officer designated

by the court for those purposes, or where the district attorney requests, the court shall order a wage assignment pursuant to this section.

(m) In any case where support for a minor child is ordered to be paid through the county officer designated by the court for that purpose, and where support is being paid on behalf of a minor child not receiving public assistance pursuant to the Family Economic Security Act of 1982 (Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code), the county shall forward the support received to the minor child's custodial parent within seven days of receipt.

(n) This section shall become operative on January 1, 1987.

SEC. 3.2. Section 4701 of the Civil Code, as amended by Section 1 of Chapter 1463 of the Statutes of 1984, is amended to read:

4701. (a) In any proceeding where the court has ordered either or both parents to pay any amount for the support of a minor child, the court may order either parent or both parents to assign to either the person to whom support has been ordered to have been paid or the county officer designated by the court to receive the payment, that portion of salary or wages of either parent due or to be due in the future as will be sufficient to pay the amount ordered by the court for the support, maintenance, and education of the minor child. The order shall operate as an assignment and shall be binding upon any existing or future employer of the defaulting parent upon whom a copy of the order is served. Any such order may be modified or revoked at any time by the court.

(b) (1) Notwithstanding the provisions of subdivision (a), in any proceeding where the court has ordered either or both parents to pay any amount for the support of a minor child, upon a petition signed under penalty of perjury by the person or county officer to whom support has been ordered to have been paid that the parent so ordered is in arrears in payment in a sum equal to the amount of one month of the payment within the 24-month period immediately preceding filing of the petition with the court, the court shall issue without notice to the parent ordered to pay support an order requiring the parent ordered to pay support to assign either to the person to whom support has been ordered to have been paid or to a county officer designated by the court to receive the payment, that portion of the salary or wages of the parent due or to be due in the future as will be sufficient to pay the amount ordered by the court for the support, maintenance, and education of the minor child. Such an order shall operate as an assignment and shall be binding upon any existing or future employer of the parent ordered to pay support upon whom a copy of the order is served.

The petition shall state the number of previous times a petition for assignment has been filed pursuant to this subdivision and the county in which any such petition was filed.

(2) No petition shall be accepted for filing pursuant to this subdivision unless it contains a declaration stating that the parent, or

any other person designated pursuant to subdivision (a), to whom support has been ordered to be paid has given the parent ordered to pay support a written notice of his or her intent to seek a wage assignment in the event of a default in support payments and that the notice was transmitted by certified mail or personally served at least 15 days prior to the date of the filing of the petition. A written notice of intent to seek a wage assignment may be given at the time of filing a petition or complaint for support or at any time subsequent thereto. In addition to any other penalty provided by law, the filing of a petition with knowledge of the falsity of the declaration of notice is punishable as a contempt pursuant to Section 1209 of the Code of Civil Procedure. The parent ordered to pay support may at any time waive the written notice required by this subdivision.

(3) The parent to whom support has been ordered to be paid shall notify the court and the employer of the parent ordered to pay support, by any form of mailing requiring a return receipt, of any change of address within a reasonable period of time after any such change. In instances in which payments have been ordered to be made to a county officer designated by the court, the parent to whom support has been ordered to be paid shall notify the court and the county officer, by any form of mail requiring a return receipt, of any address change within a reasonable period of time after the change. If the employer or county officer is unable to deliver payments under the assignment for a period of six months due to the failure of the person to whom support has been ordered to be paid to notify the employer or county officer of a change of address, the employer or county officer shall not make any further payments under the assignment and shall return all undeliverable payments to the employee.

(4) An assignment order made pursuant to this subdivision shall not become effective until 10 days after service of the order on an employer.

(5) Within 10 days of service of an assignment order issued pursuant to this subdivision on an employer, the employer shall deliver a copy of the assignment order to the parent ordered to pay support.

(6) A parent alleged to be in default may move to quash an assignment order issued under this subdivision within 10 days after service on the parent of notice of the assignment order by his or her employer if the parent states under oath that a default in the amount alleged in the petition has not occurred within the 24-month period referred to in the petition or that the amount is not owed. The motion and notice of motion to quash the assignment order shall be filed with the court issuing the assignment order within 10 days after service on the parent of notice of the order by the employer. The clerk of the court shall set the motion to quash for hearing within not less than 15 days, nor more than 20 days, after receipt of the notice of motion and shall mail to the petitioner at the return address contained in the petition a copy of the notice of motion by first-class

mail within five days after receipt of the notice of motion.

(7) The employer shall continue to withhold and forward support as ordered by the court until served with notice that the motion to quash under this subdivision has been granted. An employer who willfully fails to withhold and forward support pursuant to a currently valid order entered and served upon the employer pursuant to this section is liable to the person or county officer to whom support was ordered to be paid for the amount of support not withheld, forwarded, or otherwise paid to the person or county officer. Willful failure by an employer to comply with such an order is punishable as a contempt pursuant to Section 1218 of the Code of Civil Procedure.

(8) The due date of support payments under this subdivision shall be the date specifically stated in the order of support or if no date is stated in the support order, then it shall be the last day of the month in which the support payment is to be paid.

(9) For purposes of this subdivision, arrearages of payment shall be computed on the basis of the payments owed and unpaid on the date that the parent ordered to pay support has been given notice of the order of assignment and the fact that the parent ordered to pay support may have subsequently paid the arrearages shall not relieve the court of its duty under this subdivision to order the assignment.

(10) Upon petition by the parent ordered to pay support, the court shall terminate an order of assignment entered pursuant to this subdivision upon proof of full payment pursuant to the wage assignment for the appropriate period of time, as follows:

(A) An assignment pursuant to this subdivision pursuant to an initial petition shall continue until support payments are current.

(B) An assignment under this subdivision pursuant to a second petition filed within 24 months shall continue for 24 months.

(C) An assignment under this subdivision pursuant to a third or subsequent petition filed within 48 months shall not be terminated unless upon a petition by the parent ordered to pay support the court determines that there is good cause to terminate the assignment.

Upon petition by the parent ordered to pay support, the court shall terminate an order of assignment entered pursuant to this subdivision if the employer or county officer has been unable to deliver payments under the assignment for a period of six months due to the failure of the person to whom support has been ordered to be paid to notify the employer or county officer of a change of address.

(c) The Judicial Council shall prescribe forms for the orders for wage assignment required or authorized by this section. The employer may deduct from the salary or wages of the employee the sum of one dollar ($1) for each payment made pursuant to the order. Any such assignment made pursuant to court order shall have priority as against any attachment, execution, or other assignment, unless otherwise ordered by the court.

(d) The employer shall cooperate with and provide relevant employment information to the district attorney for the purpose of enforcing the child support obligation.

(e) Orders for wage assignment required or authorized by this section shall include a requirement that the parent ordered to pay support notify the parent or other person designated to receive payment of any change of employment and of the name and address of his or her new employer.

(f) No employer shall use any assignment authorized by this section as grounds for refusing to hire a person or for discharging or taking disciplinary action against an employee. An employer who engages in the conduct prohibited by this subdivision may be assessed a civil penalty of a maximum of five hundred dollars ($500).

(g) As used in this section "employer" includes the United States government and any public entity as defined in Section 811.2 of the Government Code.

(h) On declaration or affidavit of the parent to whom support has been ordered to be paid to the court that: (1) the parent ordered to make support payments is in default in the payment in the amount specified in subdivision (b), and (2) the whereabouts of the defaulting parent or the identity of his or her employer are unknown to the parent to whom support has been ordered to be paid, the district attorney shall contact the central registry maintained by the Department of Justice in the manner prescribed in Section 11478.5 of the Welfare and Institutions Code, and upon receiving the requested information, notify the court of the last known address of the absent parent and the name and address of the absent parent's last known employer. The court shall then order the defaulting parent to make support payments pursuant to subdivision (b).

(i) Nothing in this section shall limit the authority of the district attorney to utilize any and all civil and criminal remedies to enforce child support obligations regardless of whether or not the custodial parent receives welfare moneys.

(j) The provisions of this section apply to the money and benefits described in Sections 704.110 and 704.113 of the Code of Civil Procedure to the extent that the money and benefits are subject to a wage assignment for support under Chapter 4 (commencing with Section 703.010) of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure.

(k) Notwithstanding any other provision of law, when a certified copy of any order of assignment is served on any public entity described in Section 704.110 of the Code of Civil Procedure other than the United States government, that entity shall comply with any request for a return of employee contributions by an employee named in the order by delivering the contributions to the clerk of the court from which the order issued, unless the entity has received a certified copy of an order terminating the order of assignment. Upon receipt of moneys pursuant to this section, the clerk of the court, within 10 days, shall send written notice of that fact to the parties,

and any agency through whom payments have been ordered under Section 4702. These moneys shall be subject to any procedure available to enforce an order for child support, but if no enforcement procedure is commenced after 30 days have elapsed from the date the notice of receipt is sent, the clerk shall, upon request, return the moneys to the public entity that delivered the moneys to the court unless the public entity has informed the court in writing that the moneys shall be released to the defaulting parent. A court shall not directly or indirectly condition the issuance, modification, or termination of, or condition the terms or conditions of, any order for the support of a minor child upon the issuance of such a request by such an employee.

(*l*) Notwithstanding subdivisions (a) and (b), in any case where support is ordered to be paid through the county officer designated by the court for those purposes, or where the district attorney requests, the court shall order a wage assignment pursuant to this section.

In any such case in which an arrearage is alleged, the party ordered to pay support may move to quash the order for wage assignment in the manner specified in subdivision (b).

As used in this subdivision, "wage assignment" has the same meaning as "assignment" and "wage assignment" in subdivisions (a) and (b).

(m) In any case where support for a minor child is ordered to be paid through the county officer designated by the court for that purpose, and where support is being paid on behalf of a minor child not receiving public assistance pursuant to the Family Economic Security Act of 1982 (Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code), the county shall forward the support received to the minor child's custodial parent within seven days of receipt.

(n) This section shall remain in effect only until January 1, 1987, and as of that date is repealed.

SEC. 3.4. Section 4701 of the Civil Code, as amended by Section 1.5 of Chapter 1463 of the Statutes of 1984, is amended to read:

4701. (a) In any proceeding where the court has ordered either or both parents to pay any amount for the support of a minor child, the court may order either parent or both parents to assign to either the person to whom support has been ordered to have been paid or the county officer designated by the court to receive the payment, that portion of salary or wages of either parent due or to be due in the future as will be sufficient to pay the amount ordered by the court for the support, maintenance, and education of the minor child. The order shall operate as an assignment and shall be binding upon any existing or future employer of the defaulting parent upon whom a copy of the order is served. Any such order may be modified or revoked at any time by the court.

(b) (1) Notwithstanding the provisions of subdivision (a), in any proceeding where the court has ordered either or both parents to

pay any amount for the support of a minor child, upon a petition signed under penalty of perjury by the person or county officer to whom support has been ordered to have been paid that the parent so ordered is in arrears in payment in a sum equal to the amount of one month of the payment within the 24-month period immediately preceding filing of the petition with the court, the court shall issue without notice to the parent ordered to pay support an order requiring the parent ordered to pay support to assign either to the person to whom support has been ordered to have been paid or to a county officer designated by the court to receive the payment, that portion of the salary or wages of the parent due or to be due in the future as will be sufficient to pay the amount ordered by the court for the support, maintenance, and education of the minor child. Such an order shall operate as an assignment and shall be binding upon any existing or future employer of the parent ordered to pay support upon whom a copy of the order is served.

The petition shall state the number of previous times a petition for assignment has been filed pursuant to this subdivision and the county in which any such petition was filed.

(2) No petition shall be accepted for filing pursuant to this subdivision unless it contains a declaration stating that the parent, or any other person designated pursuant to subdivision (a), to whom support has been ordered to be paid has given the parent ordered to pay support a written notice of his or her intent to seek a wage assignment in the event of a default in support payments and that the notice was transmitted by certified mail or personally served at least 15 days prior to the date of the filing of the petition. A written notice of intent to seek a wage assignment may be given at the time of filing a petition or complaint for support or at any time subsequent thereto. In addition to any other penalty provided by law, the filing of a petition with knowledge of the falsity of the declaration of notice is punishable as a contempt pursuant to Section 1209 of the Code of Civil Procedure. The parent ordered to pay support may at any time waive the written notice required by this subdivision.

(3) The parent to whom support has been ordered to be paid shall notify the court and the employer of the parent ordered to pay support, by any form of mailing requiring a return receipt, of any change of address within a reasonable period of time after the change. In instances in which payments have been ordered to be made to a county officer designated by the court, the parent to whom support has been ordered to be paid shall notify the court and the county officer, by any form of mail requiring a return receipt, of any address change within a reasonable period of time after any such change. If the employer or county officer is unable to deliver payments under the assignment for a period of three months due to the failure of the person to whom support has been ordered to be paid to notify the employer or county officer of a change of address, the employer or county officer shall not make any further payments under the assignment and shall return all undeliverable payments to

the employee.

(4) An assignment order made pursuant to this subdivision shall not become effective until 10 days after service of the order on an employer.

(5) Within 10 days of service of an assignment order issued pursuant to this subdivision on an employer, the employer shall deliver a copy of the assignment order to the parent ordered to pay support.

(6) A parent alleged to be in default may move to quash an assignment order issued under this subdivision within 10 days after service on the parent of notice of the assignment order by his or her employer if the parent states under oath that a default in the amount alleged in the petition has not occurred within the 24-month period referred to in the petition or that the amount is not owed. The motion and notice of motion to quash the assignment order shall be filed with the court issuing the assignment order within 10 days after service on the parent of notice of the order by the employer. The clerk of the court shall set the motion to quash for hearing within not less than 15 days, nor more than 20 days, after receipt of the notice of motion and shall mail to the petitioner at the return address contained in the petition a copy of the notice of motion by first-class mail within five days after receipt of the notice of motion.

(7) The employer shall continue to withhold and forward support as ordered by the court until served with notice that the motion to quash under this subdivision has been granted. An employer who willfully fails to withhold and forward support pursuant to a currently valid order entered and served upon the employer pursuant to this section is liable to the person or county officer to whom support was ordered to be paid for the amount of support not withheld, forwarded, or otherwise paid to the person or county officer. Willful failure by an employer to comply with such an order is punishable as a contempt pursuant to Section 1218 of the Code of Civil Procedure.

(8) The due date of support payments under this subdivision shall be the date specifically stated in the order of support or if no date is stated in the support order, then it shall be the last day of the month in which the support payment is to be paid.

(9) For purposes of this subdivision, arrearages of payment shall be computed on the basis of the payments owed and unpaid on the date that the parent ordered to pay support has been given notice of the order of assignment and the fact that the parent ordered to pay support may have subsequently paid the arrearages shall not relieve the court of its duty under this subdivision to order the assignment.

(10) Upon petition by the parent ordered to pay support, the court shall terminate an order of assignment entered pursuant to this subdivision upon proof of full payment pursuant to the wage assignment for the appropriate period of time, as follows:

(A) An assignment pursuant to this subdivision pursuant to an

initial petition shall continue until support payments are current.

(B) An assignment under this subdivision pursuant to a second petition filed within 24 months shall continue for 24 months.

(C) An assignment under this subdivision pursuant to a third or subsequent petition filed within 48 months shall not be terminated unless upon a petition by the parent ordered to pay support the court determines that there is good cause to terminate the assignment.

Upon petition by the parent ordered to pay support, the court shall terminate an order of assignment entered pursuant to this subdivision if the employer or county officer has been unable to deliver payments under the assignment for a period of three months due to the failure of the person to whom support has been ordered to be paid to notify the employer or county officer of a change of address.

(c) The Judicial Council shall prescribe forms for the orders for wage assignment required or authorized by this section. The employer may deduct from the salary or wages of the employee the sum of one dollar ($1) for each payment made pursuant to the order. Any such assignment made pursuant to court order shall have priority as against any attachment, execution, or other assignment, unless otherwise ordered by the court.

(d) The employer shall cooperate with and provide relevant employment information to the district attorney for the purpose of enforcing the child support obligation.

(e) Orders for wage assignment required or authorized by this section shall include a requirement that the parent ordered to pay support notify the parent or other person designated to receive payment of any change of employment and of the name and address of his or her new employer.

(f) No employer shall use any assignment authorized by this section as grounds refusing to hire a person or for discharging or taking disciplinary action against an employee. An employer who engages in the conduct prohibited by this subdivision may be assessed a civil penalty of a maximum of five hundred dollars ($500).

(g) As used in this section "employer" includes the United States government and any public entity as defined in Section 811.2 of the Government Code.

(h) On declaration or affidavit of the parent to whom support has been ordered to be paid to the court that: (1) the parent ordered to make support payments is in default in the payment in the amount specified in subdivision (b), and (2) the whereabouts of the defaulting parent or the identity of his or her employer are unknown to the parent to whom support has been ordered to be paid, the district attorney shall contact the central registry maintained by the Department of Justice in the manner prescribed in Section 11478.5 of the Welfare and Institutions Code, and upon receiving the requested information, notify the court of the last known address of the absent parent and the name and address of the absent parent's last known employer. The court shall then order the defaulting

parent to make support payments pursuant to subdivision (b).

(i) Nothing in this section shall limit the authority of the district attorney to utilize any and all civil and criminal remedies to enforce child support obligations regardless of whether or not the custodial parent receives welfare moneys.

(j) The provisions of this section apply to the money and benefits described in Sections 704.110 and 704.113 of the Code of Civil Procedure to the extent that the money and benefits are subject to a wage assignment for support under Chapter 4 (commencing with Section 703.010) of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure.

(k) Notwithstanding any other provision of law, when a certified copy of any order of assignment is served on any public entity described in Section 704.110 of the Code of Civil Procedure other than the United States government, that entity shall comply with any request for a return of employee contributions by an employee named in that order by delivering the contributions to the clerk of the court from which the order issued, unless the entity has received a certified copy of an order terminating the order of assignment. Upon receipt of moneys pursuant to this section, the clerk of the court, within 10 days, shall send written notice of that fact to the parties, and any agency through whom payments have been ordered under Section 4702. These moneys shall be subject to any procedure available to enforce an order for child support, but if no enforcement procedure is commenced after 30 days have elapsed from the date the notice of receipt is sent, the clerk shall, upon request, return the moneys to the public entity that delivered the moneys to the court unless the public entity has informed the court in writing that the moneys shall be released to the defaulting parent. A court shall not directly or indirectly condition the issuance, modification, or termination of, or condition the terms or conditions of, any order for the support of a minor child upon the issuance of such a request by such an employee.

(*l*) Notwithstanding subdivisions (a) and (b) in case where support is ordered to be paid through the county officer designated by the court for those purposes, or where the district attorney requests, the court shall order a wage assignment pursuant to this section.

In any such case in which an arrearage is alleged, the party ordered to pay support may move to quash the order for wage assignment in the manner specified in subdivision (b).

As used in this subdivision, "wage assignment" has the same meaning as "assignment" and "wage assignment" in subdivisions (a) and (b).

(m) In any case where support for a minor child is ordered to be paid through the county officer designated by the court for that purpose, and where support is being paid on behalf of a minor child not receiving public assistance pursuant to the Family Economic Security Act of 1982 (Chapter 2 (commencing with Section 11200)

of Part 3 of Division 9 of the Welfare and Institutions Code), the county shall forward the support received to the minor child's custodial parent within seven days of receipt.

(n) This section shall become operative on January 1, 1987.

SEC. 4. Section 4801.6 of the Civil Code is amended to read:

4801.6. (a) In any proceeding where the court has ordered a party to pay any amount of spousal support to the other party, the court, upon a showing of good cause, may order the party required to make the payment of spousal support to assign to the county clerk or other officer of the court or county officer designated by the court to receive the payment, that portion of salary or wages of the party due or to be due in the future as will be sufficient to pay the amount ordered by the court for spousal support. The order shall operate as an assignment and shall be binding upon any existing or future employer of the party required to make the payment of spousal support upon whom a copy of that order is served. The Judicial Council shall prescribe forms for those orders. The employer may deduct the sum of one dollar ($1) for each payment made pursuant to the order. Any such order may be modified or revoked at any time by the court. Any such assignment made pursuant to court order shall have priority as against any execution or other assignment, unless otherwise ordered by the court, with the exception of assignments made pursuant to Section 4701. The employer shall cooperate with and provide relevant employment information to the district attorney for the purpose of enforcing the spousal support obligation.

(b) Notwithstanding the provisions of subdivision (a), in any proceeding where the court has ordered a party to pay spousal support to the other party upon both a petition by the person to whom support has been ordered to have been paid and a finding by the court that the party so ordered to pay spousal support is in arrears in payment in a sum equal to the amount of two months of payments within the 24-month period immediately preceding submission of such petition, the court shall order the defaulting party to assign either to the person to whom support has been ordered to have been paid or to a county officer designated by the court to receive the payment, that portion of the salary or wages of the party required to make the payment of spousal support as will be sufficient to pay the amount ordered by the court for spousal support. Such an order shall operate as an assignment and shall be binding upon any existing or future employer of the party required to make the payment of spousal support upon whom a copy of that order is served. The Judicial Council shall prescribe forms for those orders. The employer may deduct the sum of one dollar ($1) for each payment made pursuant to the order. Any such assignment made pursuant to court order shall have priority as against any execution or other assignment, unless otherwise ordered by the court, with the exception of assignments made pursuant to Section 4701.

The party to whom support has been ordered to be paid shall

notify the court and the employer of the party ordered to pay spousal support, by any form of mail requiring a return receipt, of any change of address within a reasonable period of time after the change. In instances in which payments have been ordered to be made to a county officer designated by the court, the party to whom spousal support has been ordered to be paid shall notify the court and the county officer, by any form of mail requiring a return receipt, of any address change within a reasonable period of time after the changes. If the employer or county officer is unable to deliver payments under the assignment for a period of three months due to the failure of the person to whom support has been ordered to be paid to notify the employer or county officer of a change of address, the employer or county officer shall not make any further payments under the assignment and shall return all undeliverable payments to the employee.

For purposes of this subdivision, arrearages in payment shall be computed on the basis of the payments owed and unpaid on the date that the defaulting party has been given notice personally, and not by mail pursuant to Sections 1010 and 1011 of the Code of Civil Procedure of the application for the order of assignment, and the fact that the defaulting party may have subsequently paid the arrearages shall not relieve the court of its duty under this subdivision to order the assignment.

Upon a petition by the defaulting party, the court shall terminate an order of assignment entered pursuant to this subdivision if (1) there has been 18 continuous and uninterrupted months of full payment under the wage assignment or (2) the employer or county officer has been unable to deliver payments under the assignment for a period of three months due to the failure of the person to whom spousal support has been ordered to be paid to notify the employer or county officer of a change of address.

(c) No employer shall use any assignment authorized by this section as grounds for the dismissal of such employee.

(d) Orders for wage assignment required or authorized by this section shall include a requirement that the person ordered to pay support notify the other party or other person designated to receive payment of any change of employment.

(e) As used in this section "employer" includes the United States government and any public entity as defined in Section 811.2 of the Government Code.

(f) On declaration or affidavit of the party to whom spousal support has been ordered to be paid to the court that: (1) the party ordered to make a spousal support payment is in default in such payment in the amount specified in subdivision (b), and (2) the whereabouts of such defaulting party or the identity of his or her employer are unknown to the party to whom spousal support has been ordered to be paid, the district attorney shall contact the central registry maintained by the Department of Justice in the manner prescribed in Section 11478.5 of the Welfare and Institutions

Code, and upon receiving the requested information, notify the court of the last known address of the absent party and the name and address of the absent party's last known employer. The court shall then order the party obligated to make spousal support payments to show cause why an order for assignment pursuant to subdivision (b) should not issue. The county may charge a reasonable fee not to exceed two dollars and fifty cents ($2.50) for the services of the district attorney under this subdivision.

(g) Nothing in this section shall limit or expand the authority of the district attorney to utilize any and all civil and criminal remedies to enforce spousal support obligations regardless of whether or not the party to be supported receives welfare moneys.

(h) The provisions of this section apply to the money and benefits described in Sections 704.110 and 704.113 of the Code of Civil Procedure to the extent that those moneys and benefits are subject to a wage assignment for support under Chapter 4 (commencing with Section 703.010) of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure.

(i) Notwithstanding any other provision of law, when a certified copy of any order of assignment is served on any public entity described in Section 704.110 of the Code of Civil Procedure other than the United States government, that entity shall comply with any request for a return of employee contributions by an employee named in such order by delivering the contributions to the clerk of the court from which the order issued, unless the entity has received a certified copy of an order terminating the order of assignment. Upon receipt of moneys pursuant to this section, the clerk of the court, within 10 days, shall send written notice of that fact to the parties, and any agency through whom payments have been ordered under Section 4801.7. These moneys shall be subject to any procedure available to enforce an order for spousal support, but if no enforcement procedure is commenced after 30 days have elapsed from the date the notice is sent, the clerk shall, upon request, return the moneys to the public entity that delivered the moneys to the court unless the public entity has informed the court in writing that the moneys shall be released to the defaulting party. A court shall not directly or indirectly condition the issuance, modification or termination of, or condition the terms or conditions of, any order for spousal support upon the issuance of such a request by such an employee.

SEC. 4.2. Section 4801.6 of the Civil Code is amended to read:

4801.6. (a) In any proceeding where the court has ordered a party to pay any amount of spousal support to the other party, the court, upon a showing of good cause, may order the party required to make a payment of spousal support to assign to either the person to whom support has been ordered to have been paid or the county officer designated by the court to receive the payment, that portion of salary or wages of the party due or to be due in the future as will be sufficient to pay the amount ordered by the court for spousal

support. The order shall operate as an assignment and shall be binding upon any existing or future employer of the party required to make the payment of spousal support upon whom a copy of the order is served. Any such order may be modified or revoked at any time by the court.

(b) (1) Notwithstanding the provisions of subdivision (a), in any proceeding where the court has ordered a party to pay spousal support to the other party, upon a petition signed under penalty of perjury by the person to whom support has been ordered to have been paid alleging that the party ordered to pay spousal support is in arrears in payment in a sum equal to the amount of one month of the payment within the 24-month period immediately preceding filing of the petition, the court, without notice to the defaulting party, shall order the defaulting party to assign either to the person to whom support has been ordered to have been paid or to a county officer designated by the court to receive the payment, that portion of the salary or wages of the party required to make the payment of spousal support as will be sufficient to pay the amount ordered by the court for spousal support.

Such an order shall operate as an assignment and shall be binding upon any existing or future employer of the party required to make a payment of spousal support upon whom a copy of the order is served.

The petition shall state the number of previous times a petition for assignment has been filed pursuant to this subdivision and the county in which any such petition was filed.

(2) No petition shall be accepted for filing pursuant to this subdivision unless it contains a declaration stating that the person to whom support has been ordered to be paid has given the person ordered to pay support a written notice of his or her intent to seek a wage assignment in the event of a default in support payments and that the notice was transmitted by certified mail or personally served at least 15 days prior to the date of the filing of the petition. A written notice of intent to seek a wage assignment may be given at the time of the entry of the decree of dissolution or at any time subsequent thereto. In addition to any other penalty provided by law, the filing of a petition with knowledge of the falsity of the declaration of notice is punishable as a contempt pursuant to Section 1209 of the Code of Civil Procedure. The person ordered to pay support may at any time waive the written notice required by this subdivision.

(3) The party to whom support has been ordered to be paid shall notify the court and the employer of the party ordered to pay spousal support, by any form of mail requiring a return receipt, of any change of address within a reasonable period of time after any such change. In instances in which payments have been ordered to be made to a county officer designated by the court, the party to whom spousal support has been ordered to be paid shall notify the court and the county officer, by any form of mail requiring a return receipt, of any address change within a reasonable period of time after any

changes. If the employer or county officer is unable to deliver payments under the assignment for a period of six months due to the failure of the person to whom support has been ordered to be paid to notify the employer or county officer of a change of address, the employer or county officer shall not make any further payments under the assignment and shall return all undeliverable payments to the employee.

(4) An assignment order made pursuant to this subdivision shall not become effective until 10 days after service of the order on an employer.

(5) Within 10 days of service of an assignment order issued pursuant to this subdivision on an employer, the employer shall deliver a copy of the assignment order to the person ordered to pay support.

(6) A person alleged to be in default may move to quash an assignment order issued under this subdivision within 10 days after service on the person of notice of the assignment order by his or her employer if the person states under oath that a default in the amount alleged in the petition has not occurred within the 24-month period referred to in the petition or that the amount is not owed. The motion and notice of motion to quash the assignment order shall be filed with the court issuing the assignment order within 10 days after service on the person of notice of the order by the employer. The clerk of the court shall set the motion to quash for hearing within not less than 15 days, nor more than 20 days, after receipt of the notice of motion and shall mail to the petitioner at the return address contained in the petition a copy of the notice of motion by first-class mail within five days after receipt of the notice of motion.

(7) The employer shall continue to withhold and forward support as ordered by the court until served with notice that the motion to quash under this subdivision has been granted.

(8) The due date of support payments under this subdivision shall be the date specifically stated in the order of support or if no date is stated in the support order, then it shall be the last day of the month in which the support payment is to be paid.

(9) For purposes of this subdivision, arrearages of payment shall be computed on the basis of the payments owed and unpaid on the date that the person ordered to pay support has been given notice of the order of assignment, and the fact that the person ordered to pay support may have subsequently paid the arrearages shall not relieve the court of its duty under this subdivision to order the assignment.

(10) Upon petition by the person ordered to pay support, the court shall terminate an order of assignment entered pursuant to this subdivision upon proof of full payment pursuant to the wage assignment for the appropriate period of time, as follows:

(A) An assignment pursuant to this subdivision pursuant to an initial petition shall continue until support payments are current.

(B) An assignment under this subdivision pursuant to a second

petition filed within 24 months shall continue for 24 months.

(C) An assignment under this subdivision pursuant to a third or subsequent petition filed within 48 months shall not be terminated unless upon a petition by the person ordered to pay support the court determines that there is good cause to terminate the assignment.

Upon petition by the person ordered to pay support, the court shall terminate an order of assignment entered pursuant to this subdivision if the employer or county officer has been unable to deliver payments under the assignment for a period of six months due to the failure of the person to whom support has been ordered to be paid to notify the employer or county officer of a change of address.

(c) The Judicial Council shall prescribe forms for the orders for wage assignment required or authorized by this section. The employer may deduct from the salary or wages of the employee the sum of one dollar ($1) for each payment made pursuant to the order. Any such assignment made pursuant to court order shall have priority as against any attachment, execution, or other assignment, unless otherwise ordered by the court, with the exception of assignments made pursuant to Section 4701.

(d) The employer shall cooperate with, and provide relevant employment information to, the district attorney for the purpose of enforcing the spousal support obligation.

(e) No employer shall use any assignment authorized by this section as grounds for the dismissal of an employee.

(f) Orders for wage assignment required or authorized by this section shall include a requirement that the person ordered to pay support notify the other party or other person designated to receive payment of any change of employment.

(g) As used in this section "employer" includes the United States government and any public entity as defined in Section 811.2 of the Government Code.

(h) On declaration or affidavit of the party to whom spousal support has been ordered to be paid to the court that: (1) the party ordered to make a spousal support payment is in default in that payment in the amount specified in subdivision (b), and (2) the whereabouts of such defaulting party or the identity of his or her employer are unknown to the party to whom spousal support has been ordered to be paid, the district attorney shall contact the central registry maintained by the Department of Justice in the manner prescribed in Section 11478.5 of the Welfare and Institutions Code, and upon receiving the requested information, notify the court of the last known address of the absent party and the name and address of the absent party's last known employer. The court shall then order the party obligated to make spousal support payments to show cause why an order for assignment pursuant to subdivision (b) should not issue. The county may charge a reasonable fee not to exceed two dollars and fifty cents ($2.50) for the services of the district attorney under this subdivision.

(i) Nothing in this section shall limit or expand the authority of the district attorney to utilize any and all civil and criminal remedies to enforce spousal support obligations regardless of whether or not the party to be supported receives welfare moneys.

(j) The provisions of this section apply to the money and benefits described in Sections 704.110 and 704.113 of the Code of Civil Procedure to the extent that those moneys and benefits are subject to a wage assignment for support under Chapter 4 (commencing with Section 703.010) of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure.

(k) Notwithstanding any other provision of law, when a certified copy of any order of assignment is served on any public entity described in Section 704.110 of the Code of Civil Procedure other than the United States government, that entity shall comply with any request for a return of employee contributions by an employee named in the order by delivering the contributions to the clerk of the court from which the order issued, unless the entity has received a certified copy of an order terminating the order of assignment. Upon receipt of moneys pursuant to this section, the clerk of the court, within 10 days, shall send written notice of that fact to the parties, and any agency through whom payments have been ordered under Section 4801.7. The moneys shall be subject to any procedure available to enforce an order for spousal support, but if no enforcement procedure is commenced after 30 days have elapsed from the date the notice is sent, the clerk shall, upon request, return the moneys to the public entity that delivered the moneys to the court unless the public entity has informed the court in writing that the moneys shall be released to the defaulting party. A court shall not directly or indirectly condition the issuance, modification or termination of, or condition the terms or conditions of, any order for spousal support upon the issuance of such a request by such an employee.

(*l*) The procedures specified in this section are applicable to any proceeding where the court has ordered a party to pay any amount for family support.

(m) This section shall remain in effect only until January 1, 1987, and as of that date is repealed.

SEC. 5. Section 11475.1 of the Welfare and Institutions Code is amended to read:

11475.1. Each county shall maintain a single organizational unit located in the office of the district attorney which shall have the responsibility for promptly and effectively enforcing child and spousal support obligations and determining paternity in the case of a child born out of wedlock. The district attorney shall take appropriate action, both civil and criminal, to enforce this obligation when the child is receiving public assistance, and when requested to do so by the individual on whose behalf the enforcement efforts will be made when the child is not receiving public assistance. This responsibility shall apply to spousal support only where the spousal

support obligation has been reduced to an order of a court of competent jurisdiction. In any action brought or enforcement proceedings instituted by the district attorney pursuant to this section for payment of child or spousal support, an action to recover an arrearage in support payments may be maintained by the district attorney at any time within the period otherwise specified for the enforcement of a support judgment, notwithstanding the fact that the child has attained the age of majority. The county shall undertake an outreach program to inform the public that this service is available to persons not receiving public assistance. There shall be prominently displayed in every public area of every office of the units established by this section a notice, in clear and simple language prescribed by the Director of Social Services, that child and spousal support enforcement services are provided to all individuals whether or not they are recipients of public social services.

To the extent required by federal law, where the child and spouse are not receiving public assistance and the district attorney is collecting support, the person obligated to pay the support shall also be obligated to pay the district attorney a fee equal to 10 percent of the total support collected by the district attorney, including any past due support. This fee shall not apply to any support assigned under Section 11477. No part of this fee may be collected until all support installments for which the district attorney is responsible for collecting, including past due support, have been paid in full, excluding sums to become due in the future. This fee shall be enforced in the same manner as any other judgment or order of a superior court for child support. The effective date of the fee for purposes of applying any time limitations on its enforcement shall be the date when the support collected to which the fee applies, was paid, except that the time limitations shall be tolled until all past due support to be collected by the district attorney has been so collected. Nothing in this section shall prevent an applicant for collection of support under this section from requesting the collection to be discontinued prior to the collection of sums to which the fee would otherwise apply, but the discontinuance shall have no effect on the enforcement collection of any fee which has become due because of the collection of support.

In any action for child support brought by the district attorney in the performance of duties under this section, the district attorney may make a motion for an order effective during the pendency of that action, for the support, maintenance, and education of the child or children that are the subject of the action. This order shall be referred to as an order for temporary support. This order shall have the same force and effect as a like or similar order under the Family Law Act (Part 5 (commencing with Section 4000) of Division 4 of the Civil Code).

The district attorney shall file a motion for an order for temporary support within the following time limits:

(a) If the defendant is the mother, a presumed father under

subdivision (a) of Section 7004 of the Civil Code, or any father where the child is at least six months old when the defendant files his answer, the time limit is 90 days after the defendant files an answer.

(b) In any other case where the defendant has filed an answer prior to the birth of the child or not more than six months after the birth of the child, then the time limit is nine months after the birth of the child.

If more than one child is the subject of the action, the limitation on reimbursement shall apply only as to those children whose parental relationship and age would bar recovery were a separate action brought for support of that child or those children.

If the district attorney fails to file a motion for an order for temporary support within time limits specified in this section, the district attorney shall be barred from obtaining a judgment of reimbursement for any support provided for that child during the period between the date the time limit expired and the motion was filed, or, if no such motion is filed, when a final judgment is entered.

Nothing in this section shall prohibit the district attorney from entering into cooperative arrangements with other county departments as necessary to carry out the responsibilities imposed by this section pursuant to plans of cooperation with the departments approved by the State Department of Social Services

Nothing in this section shall otherwise limit the ability of the district attorney from securing and enforcing orders for support of a spouse or former spouse as authorized under any other provision of law.

SEC. 6. Section 11475.1 of the Welfare and Institutions Code is amended to read:

11475.1. (a) Each county shall maintain a single organizational unit located in the office of the district attorney which shall have the responsibility for promptly and effectively enforcing child and spousal support obligations and determining paternity in the case of a child born out of wedlock. The district attorney shall take appropriate action, both civil and criminal, to enforce this obligation when the child is receiving public assistance, and when requested to do so by the individual on whose behalf the enforcement efforts will be made when the child is not receiving public assistance. This responsibility shall apply to spousal support only where the spousal support obligation has been reduced to an order of a court of competent jurisdiction. In any action brought or enforcement proceedings instituted by the district attorney pursuant to this section for payment of child or spousal support, an action to recover an arrearage in support payments may be maintained by the district attorney at any time within the period otherwise specified for the enforcement of a support judgment, notwithstanding the fact that the child has attained the age of majority. The county shall undertake an outreach program to inform the public that this service is available to persons not receiving public assistance. There shall be prominently displayed in every public area of every office of the

units established by this section a notice, in clear and simple language prescribed by the Director of Social Services, that child and spousal support enforcement services are provided to all individuals whether or not they are recipients of public social services.

To the extent required by federal law, where the child and spouse are not receiving public assistance and the district attorney is collecting support, the person obligated to pay the support shall also be obligated to pay the district attorney a fee equal to 10 percent of the total support collected by the district attorney, including any past due support. This fee shall not apply to any support assigned under Section 11477. No part of this fee may be collected until all support installments for which the district attorney is responsible for collecting, including past due support, have been paid in full, excluding sums to become due in the future. This fee shall be enforced in the same manner as any other judgment or order of a superior court for child support. The effective date of the fee for purposes of applying any time limitations on its enforcement shall be the date when the support collected to which the fee applies, was paid, except that the time limitations shall be tolled until all past due support to be collected by the district attorney has been so collected. Nothing in this section shall prevent an applicant for collection of support under this section from requesting the collection to be discontinued prior to the collection of sums to which the fee would otherwise apply, but the discontinuance shall have no effect on the enforcement collection of any fee which has become due because of the collection of support.

In any action for child support brought by the district attorney in the performance of duties under this section, the district attorney may make a motion for an order effective during the pendency of that action, for the support, maintenance, and education of the child or children that are the subject of the action. This order shall be referred to as an order for temporary support. This order shall have the same force and effect as a like or similar order under the Family Law Act (Part 5 (commencing with Section 4000) of Division 4 of the Civil Code).

The district attorney shall file a motion for an order for temporary support within the following time limits:

(1) If the defendant is the mother, a presumed father under subdivision (a) of Section 7004 of the Civil Code, or any father where the child is at least six months old when the defendant files his answer, the time limit is 90 days after the defendant files an answer.

(2) In any other case where the defendant has filed an answer prior to the birth of the child or not more than six months after the birth of the child, then the time limit is nine months after the birth of the child.

If more than one child is the subject of the action, the limitation on reimbursement shall apply only as to those children whose parental relationship and age would bar recovery were a separate action brought for support of that child or those children.

If the district attorney fails to file a motion for an order for temporary support within time limits specified in this section, the district attorney shall be barred from obtaining a judgment of reimbursement for any support provided for that child during the period between the date the time limit expired and the motion was filed, or, if no such motion is filed, when a final judgment is entered.

Nothing in this section shall prohibit the district attorney from entering into cooperative arrangements with other county departments as necessary to carry out the responsibilities imposed by this section pursuant to plans of cooperation with the departments approved by the State Department of Social Services.

Nothing in this section shall otherwise limit the ability of the district attorney from securing and enforcing orders for support of a spouse or former spouse as authorized under any other provision of law.

(b) As used in this article, "enforcing obligations" includes, but is not limited to, the use of all interception and notification systems operated by the State Department of Social Services for the purposes of aiding in the enforcement of support obligations.

SEC. 7. (a) Section 2 of this bill incorporates amendments to Section 4701 of the Civil Code, as amended by Section 1 of Chapter 1463 of the Statutes of 1984, proposed by both this bill and AB 250, which has been chaptered (Chapter 404, Statutes of 1985), but does not incorporate amendments to that section proposed by AB 2300. Therefore, it shall become operative only if this bill is enacted and AB 2300 does not become effective on or before January 1, 1986, or as enacted does not amend that section.

(b) Section 3.2 of this bill incorporates amendments to Section 4701 of the Civil Code, as amended by Section 1 of Chapter 1463 of the Statutes of 1984, proposed by this bill, AB 250, which has been chaptered (Chapter 404, Statutes of 1985), and AB 2300. Therefore, it shall become operative only if (1) all three bills are enacted and become effective on or before January 1, 1986, (2) all three bills amend Section 4701 of the Civil Code, as amended by Section 1 of Chapter 1463 of the Statutes of 1984, and (3) this bill is enacted after AB 250 and AB 2300, in which case Section 2 of this bill shall not become operative.

SEC. 8. (a) Section 3 of this bill incorporates amendments to Section 4701 of the Civil Code, as amended by Section 1.5 of Chapter 1463 of the Statutes of 1984, proposed by both this bill and AB 250, which has been chaptered (Chapter 404, Statutes of 1985), but does not incorporate amendments to that section proposed by AB 2300. Therefore, it shall become operative only if this bill is enacted and AB 2300 does not become effective on or before January 1, 1986, or, as enacted, does not amend that section.

(b) Section 3.4 of this bill incorporates amendments to Section 4701 of the Civil Code, as amended by Section 1.5 of Chapter 1463 of the Statutes of 1984, proposed by this bill, AB 250, which has been chaptered (Chapter 404, Statutes of 1985), and AB 2300. Therefore,

it shall become operative only if (1) all three bills are enacted and become effective on or before January 1, 1986, (2) all three bills amend Section 4701 of the Civil Code, as amended by Section 1.5 of Chapter 1463 of the Statutes of 1984, and (3) this bill is enacted after AB 250 and 2300, in which case Section 3 of this bill shall not become operative.

SEC. 9. Section 4.2 of this bill incorporates amendments to Section 4801.6 of the Civil Code proposed by both this bill and AB 250. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1986, (2) each bill amends Section 4801.6 of the Civil Code, and (3) this bill is enacted after AB 250, in which case Section 4 of this bill shall not become operative.

Further, if both this bill and AB 250 are enacted, Section 4801.6 of the Civil Code, as added by Section 10 of AB 250, shall become operative on January 1, 1987, and Section 4801.6 of the Civil Code, as added by Section 5 of AB 250, shall not become operative.

SEC. 10. Section 6 of this bill incorporates amendments to Section 11475 1 of the Welfare and Institutions Code proposed by both this bill and AB 2300. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1986, (2) each bill amends Section 11475.1 of the Welfare and Institutions Code, and (3) this bill is enacted after AB 2300, in which case Section 11475.1 of the Welfare and Institutions Code, as amended by AB 2300, shall remain operative only until the operative date of this bill, at which time Section 6 of this bill shall become operative, and Section 5 of this bill shall not become operative.

SEC. 11. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution 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. 12. 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 1070

An act to amend Sections 2292 and 2294 of the Business and Professions Code, relating to physicians and surgeons.

[Approved by Governor September 27, 1985 Filed with Secretary of State September 27, 1985]

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

SECTION 1. Section 2292 of the Business and Professions Code is amended to read:

2292. (a) A physician may be ordered to undergo a professional competency examination if, after investigation and review by a medical consultant of the Board of Medical Quality Assurance or his or her designee, and review and concurrence by at least one outside medical consultant, there is reasonable cause to believe that the physician is unable to practice medicine with reasonable skill and safety to patients. Reasonable cause shall be demonstrated by one or more of the following: (1) a single incident of gross negligence; (2) a pattern of inappropriate prescribing; (3) an act of incompetence or negligence causing death or serious bodily injury; or (4) a pattern of substandard care.

(b) The matter shall be presented by the board's executive director or his or her designee by way of a written petition detailing the reasonable cause. The petition shall contain all conclusions and facts upon which the presumption of reasonable cause is based. A copy of the petition shall be served on the physician who shall have the opportunity to file written opposition to the petition within 45 days after service. Service of the petition and any orders shall be in accordance with the methods of service authorized by subdivision (c) of Section 11505 of the Government Code.

(c) The petition may be considered by the Division of Medical Quality, or the division may assign the petition for consideration to a panel of a medical quality review committee, formed pursuant to Section 2323.

(d) The division or a committee panel shall review the petition and any opposition paper from the physician, or the division or panel may hold a hearing in accordance with the provisions of the Administrative Procedure Act to determine if reasonable cause exists, as specified in subdivision (a). The physician shall have the right to be represented at that hearing by the person of his or her choice. If the division or panel is satisfied that reasonable cause exists as to the circumstances specified in subdivision (a), the division or panel shall issue an order compelling the physician to undergo an examination of professional competency as measured by community standards. For purposes of this section, "community standards" means the statewide standards of the community of licensees. Failure to comply with the order duly served on the physician shall constitute unprofessional conduct for purposes of disciplinary proceedings.

SEC. 2. Section 2294 of the Business and Professions Code is amended to read:

2294. (a) If the division proceeds pursuant to the provisions of Sections 2292 and 2293 and the physician passes the professional competency examination administered, the division shall be precluded from filing an accusation of incompetency based solely on

the circumstances giving rise to the reasonable cause for the examination.

(b) If the division determines there is insufficient cause to file an accusation based on the examination results, then all agency records of the proceedings, including the petition and order for the examination, investigative reports, if any, reports of staff or outside medical consultants, and the reports of the examiners, shall be kept confidential and shall not be subject to discovery or subpoena.

(c) If no further proceedings are conducted to determine the physician's fitness to practice during a period of five years from the date of the petition under Section 2292, then the agency shall purge and destroy all records pertaining to the proceedings.

CHAPTER 1071

An act to add Section 13954 to the Vehicle Code, relating to drivers' licenses.

[Approved by Governor September 27, 1985 Filed with Secretary of State September 27, 1985]

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

SECTION 1. Section 13954 is added to the Vehicle Code, to read:

13954. (a) Notwithstanding any other provision of this code, the department shall immediately suspend or revoke the driving privilege of any person who the department has reasonable cause to believe was in any manner involved in an accident while operating a motor vehicle if, at the time of the accident, that person had 0.10 percent or more, by weight, of alcohol in his or her blood and he or she proximately caused the accident as a result of any act prohibited, or the neglect of any duty imposed, by law and the accident occurred within five years of the date of a violation of paragraph (3) or (4) of subdivision (c) of Section 192 of the Penal Code which resulted in a conviction.

(b) If an accident described in subdivision (a) does not result in a conviction or finding of violation of Section 23152 or 23153, the department shall suspend the driving privilege under this section for one year from the date of actual commencement of the suspension. After the one-year suspension period, the driving privilege may be reinstated if evidence establishes to the satisfaction of the department that no grounds exist which would authorize the refusal to issue a license and that reinstatement of the driving privilege would not jeopardize the safety of the person or other persons upon the highways and if the person gives proof of ability to respond in damages as defined in Section 16430.

(c) If an accident described in subdivision (a) does result in a conviction or finding of a violation of Section 23152 or 23153, the

department shall revoke the driving privilege under this section for three years from the date of actual commencement of the revocation. After the three-year revocation period, the driving privilege may be reinstated if evidence establishes to the satisfaction of the department that no grounds exist which would authorize the refusal to issue a license and that reinstatement of the driving privilege would not jeopardize the safety of the person or other persons upon the highways and if the person gives proof of the ability to respond in damages as defined in Section 16430.

(d) Any revocation action under subdivision (c) shall be imposed as follows:

(1) If the accident results in a first conviction of a violation of Section 23152 or 23153, or if the person was convicted of a separate violation of Section 23152 or 23153 which occurred within five years of the accident, the period of revocation under subdivision (c) shall be concurrent with any period of restriction, suspension, or revocation imposed under Section 13352 or 13352.5.

(2) If the person was convicted of two or more separate violations of Section 23152 or 23153, or both, which occurred within five years of the accident, the period of revocation under subdivision (c) shall be cumulative and shall be imposed consecutively with any period of restriction, suspension, or revocation imposed under Section 13352 or 13352.5.

(e) The department shall immediately notify the person in writing of the action taken and, upon the person's request in writing and within 15 days from the date of receipt of that request, shall grant the person an opportunity for a hearing in the same manner and under the same conditions as provided in Article 3 (commencing with Section 14100) of Chapter 3, except as otherwise provided in this section. For purposes of this section, the scope of the hearing shall cover the issues of whether the peace officer had reasonable cause to believe the person had been driving a motor vehicle in violation of Section 23152 or 23153, whether the person had been placed under lawful arrest, and whether a chemical test of the person's blood, breath, or urine indicated that the blood-alcohol level was 0.10 percent or more, by weight, at the time of testing. If the department determines, upon a hearing of the matter, that the person had not been placed under lawful arrest, or that a chemical test of the person's blood, breath, or urine did not indicate a blood-alcohol level of 0.10 percent or more, by weight, at the time of testing, the suspension or revocation shall be immediately terminated.

(f) This section is applicable if the accident occurred on or after January 1, 1986, without regard for the dates of the violations referred to in subdivisions (a) and (d).

CHAPTER 1072

An act to amend Section 18975.7 of the Welfare and Institutions Code, relating to child abuse.

[Approved by Governor September 27, 1985 Filed with Secretary of State September 27, 1985]

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

SECTION 1. Section 18975.7 of the Welfare and Institutions Code is amended to read:

18975.7. A "primary prevention program" means a training and educational program for children, which is directed toward all of the following:

(a) Preventing the occurrence of child abuse, including physical abuse, sexual abuse, child neglect, and child abduction.

(b) Reducing the general vulnerability of children, including coordination with and training for parents and school staff.

CHAPTER 1073

An act to add Article 3 (commencing with Section 3300) to Chapter 3 of Part 1 of Division 2 of the Public Contract Code, relating to public contracts.

[Approved by Governor September 27, 1985 Filed with Secretary of State September 27, 1985]

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

SECTION 1. It is the intent of the Legislature that this act shall apply only to contractors who contract directly with public entities pursuant to the Public Contract Code.

SEC. 2. Article 3 (commencing with Section 3300) is added to Chapter 3 of Part 1 of Division 2 of the Public Contract Code, to read:

Article 3. Bidders

3300. (a) Any public entity, as defined in Section 1100, the University of California, and the California State University shall specify the classification of the contractor's license which a contractor shall possess at the time a contract is awarded. The specification shall be included in any plans prepared for a public project and in any notice inviting bids required pursuant to this code.

This requirement shall apply only with respect to contractors who contract directly with the public entity.

(b) A contractor who is not awarded a public contract because of

the failure of an entity, as defined in subdivision (a), to comply with that subdivision shall not receive damages for the loss of the contract.

CHAPTER 1074

An act to amend Sections 1255 and 1255.5 of, and to add and repeal Part 1.85 (commencing with Section 444) of Division 1 of the Health and Safety Code, relating to cardiac services.

[Approved by Governor September 27, 1985. Filed with Secretary of State September 27, 1985.]

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

SECTION 1. Part 1.85 (commencing with Section 444) is added to Division 1 of the Health and Safety Code, to read:

PART 1.85. HEALTH CARE PILOT PROJECT

444. The Legislature hereby finds and declares all of the following:

(a) Currently cardiac catheterization diagnostic procedures are performed almost exclusively in a general acute care hospital setting, generally on an inpatient basis. The procedure is relatively costly, as are many of the inpatient diagnostic procedures that rely heavily on expensive high technology.

(b) Recent advances in technology indicate the feasibility of performing high quality, safe diagnostic cardiac catheterization procedures in a freestanding cardiac catheterization laboratory. This could lower the cost of care for the diagnostic procedure, as well as obviate the need in many instances for an expensive hospital stay.

(c) Prior to amending the law to permit cardiac catheterization to be performed in a nonhospital setting, it is the intent of the Legislature that cardiac catheterization performed in freestanding cardiac catheterization laboratories be evaluated on a pilot project basis and demonstrated to be a safe, high quality, cost-effective diagnostic modality.

(d) It is further the intent of the Legislature that a pilot program be authorized under the supervision of the Office of Statewide Health Planning and Development, and that the office report back to the Legislature its findings and recommendations on the pilot program.

444.1. As used in this part, the following terms mean:

(a) "Freestanding cardiac catheterization" means the performance of coronary angiography or cardiac catheterization, or both in a laboratory separate from a general acute care hospital. For the purpose of this part, at least one pilot site shall include the use of state-of-the-art digital electronic computer technology with

simultaneous multiplane dynamic imaging capabilities and 1024x1024 resolution and 512x512 at 30 FPS or comparable technology.

(b) "Freestanding cardiac catheterization laboratory" means a laboratory, separate from a general acute care hospital, where outpatient cardiac catheterization procedures may be performed pursuant to this part.

(c) "Office" means the Office of Statewide Health Planning and Development.

(d) "State department" means the State Department of Health Services.

(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 and shall not be performed in freestanding cardiac catheterization laboratories designated pursuant to this part. For purposes of this section, "pediatric patient" means a patient who, as of the date of the medical procedure, has not reached his or her 18th birthday.

444.2. The Office of Statewide Health Planning and Development may establish and administer a pilot program to test the safety and cost effectiveness of performing cardiac catheterization in freestanding cardiac catheterization laboratories. The office may approve up to five freestanding cardiac catheterization laboratories for inclusion under the pilot program.

444.3. Persons who wish to establish freestanding cardiac catheterization laboratories shall make application to the office for inclusion in the pilot program on forms provided by the office. Applicants shall submit a separate application for each proposed pilot site. The forms shall require the information determined to be needed by the office. At a minimum, the forms shall require the effective date for initiating pilot project services, the general service area and a description of the population to be served, a detailed description of the services to be provided, a description of backup emergency services, the availability of comprehensive care, and the qualifications of the general acute care hospital providing the emergency treatment, curricula vitae for the laboratory directors and key staff, and internal quality assurance criteria and procedures.

444.4. Each freestanding cardiac catheterization laboratory shall be under the direction of a physician and surgeon with demonstrated expertise in performing cardiac catheterization.

All physicians and surgeons performing cardiac catheterization in freestanding laboratories shall be board-eligible or board-certified by the American Board of Internal Medicine, with subspeciality certification in cardiovascular disease, or board-eligible or board-certified by the American Board of Radiology, with specialty

certification in diagnostic radiology and demonstrated competence in performing cardiac catheterization.

Other desirable qualifications include membership in the Society of Cardiovascular and Interventional Radiology, the North American Society of Cardiac Radiology, the Society for Cardiac Angiography, or similar equivalent expertise.

The office shall determine whether or not an applicant's qualifications meet the requirements of this section. The office shall have the discretion to approve equivalent qualifications in consultation with the technical advisory committee.

444.5. As a condition of participation in the pilot program, each applicant shall agree to provide the statistical data and patient information that the office deems necessary for effective evaluation, at such times as the office requires. It is the intent of the Legislature that the office shall develop procedures to assure the confidentiality of patient information, and shall only disclose patient information, including names, as is necessary pursuant to this part or any other law.

The office may suspend or withdraw approval of pilot projects with notice but without hearing if the office determines that patient safety is or may be jeopardized. A pilot project shall have the right to appeal a suspension to the director of the office, but shall not resume performing freestanding cardiac catheterization services pending a favorable outcome of the appeal.

The office may suspend or withdraw approval of pilot projects for reasons other than patient safety, including any violations of the agreement to participate in the pilot program, but in those instances, the office shall give notice to the pilot project director and afford an opportunity to be heard.

444.6. The office shall appoint a technical advisory committee to advise the office on the administration of this part. The technical advisory committee shall include, but not necessarily be limited to, a representative of the state department and at least four physicians and surgeons who have specialized training and experience in the field of cardiovascular disease or diagnostic radiology, with training in cardiovascular disease. These physicians and surgeons shall have affiliation with major teaching institutions.

A member of the Technical Advisory Committee shall not be an officer of or a director of any freestanding cardiac catheterization laboratory or have any significant beneficial or ownership interest in any freestanding cardiac catheterization laboratory designated pursuant to this part. The office shall not consider the application of a person or business entity wishing to establish a freestanding cardiac catheterization laboratory if a member of the technical advisory staff will be the laboratory director or be on the staff of or be an officer of or director of or have a beneficial or ownership interest in the proposed freestanding cardiac catheterization laboratory.

Members of the technical advisory committee shall be reimbursed for any actual and necessary expenses incurred in connection with

their duties as members of the committee.

Duties of the committee shall include, but not be limited to, advising the office on standards and criteria for approving pilot projects, advising the office on the implementation and ongoing monitoring of the pilot program, and advising the office on the evaluation of the results of the pilot program.

444.7. The office shall submit a report to the Legislature on the progress of the pilot program on or before July 1, 1988. The report shall include, but not be limited to, an evaluation of the cost, safety, and quality of care and quality of studies produced by the pilot projects. The report shall also include a recommendation as to whether freestanding cardiac catheterization should be continued, and if so, under what conditions. The report shall include a comparison of procedures in freestanding cardiac catheterization laboratories with those performed in general acute care hospitals.

444.8. The office shall establish, at a minimum, spatial, staffing, and equipment requirements for laboratories participating in the pilot program.

Protocols for the performance of freestanding cardiac catheterization procedures on an outpatient basis shall be established by the office. The protocols shall include, but not be limited to, criteria for the selection of patients or exclusion of patients from the performance of freestanding cardiac catheterization, equipment, and procedures necessary for the stabilization of patients in emergency situations prior to transfer, and criteria for patient transfer arrangements in emergency situations, which shall be in accordance with the standards established by the Emergency Medical Services Authority. No other health facility or clinic licensing or certification requirements shall be required for the performance of freestanding cardiac catheterization. The office may consult with the state department as necessary. The office may contract for specialized medical consultation, or other personnel or other services as necessary for the effective implementation of this part.

Each cardiac catheterization laboratory shall assure the office that patients examined by this program have given written informed consent.

444.9. The regulations the office adopts to implement this part shall be adopted as emergency regulations in accordance with Section 11346.1 of the Government Code, except that the regulations shall be exempt from the requirements of subdivisions (e), (f), and (g) of that section. The regulations shall be deemed to be an emergency for the purposes of Section 11346.1 of the Government Code and shall remain in effect until January 1, 1989, unless amended or repealed by the office.

444.10. The office may charge participants in the pilot program a reasonable fee, not to exceed the cost of administering this part.

444.11. This part 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.

SEC. 2. 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.

For purposes of this section, multispecialty clinic as defined in subdivision (*l*) of Section 1206 includes an entity in which the multispecialty clinic holds at least a 50 percent general partner

interest and maintains responsibility for the management of the service, if all of the following requirements are met:

(1) The multispecialty clinic existed as of March 1, 1983.

(2) Prior to March 1, 1985, the multispecialty clinic did not offer cardiac catheterization services, dynamic multiplane imaging, or other types of coronary or similar angiography.

(3) The multispecialty clinic creates only one entity that operates its service at one site.

(4) These entities shall have the equipment and procedures necessary for the stabililization of patients in emergency situations prior to transfer and patient transfer arrangements in emergency situations which shall be in accordance with the standards established by the Emergency Medical Services Authority including the availability of comprehensive care and the qualifications of any general acute hospital expected to provide emergency treatment.

Except as provided in Part 1.85 (commencing with Section 444 of Division 1,) 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 this definition as of March 1, 1983.

SEC. 3. Section 1255.5 of the Health and Safety Code is amended to read:

1255.5. For purposes of Section 1255, the following definitions 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, except as provided in subdivision (e). 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. Except as provided in Part 1.85 (commencing with Section 444) of Division 1, 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 this 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 in its own facility or in a general acute care hospital which is physically connected to it, 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.

SEC. 4. Section 1255.5 of the Health and Safety Code is amended to read:

1255.5. For purposes of Section 1255, the following definitions 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, except as provided in subdivision (e). 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.

(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 in its own facility or in a general acute care hospital which is physically connected to it, 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.

SEC. 5. Section 2 of this act shall become operative only if SB 410 of the 1985–86 Regular Session is operative.

SEC. 6. Section 4 of this bill incorporates amendments to Section 1255.5 of the Health and Safety Code proposed by both this bill and SB 410. It shall only become operative if (1) both bills are enacted and become effective January 1, 1986, (2) each bill amends Section 1255.5 of the Health and Safety Code, and (3) AB 1086 does not become operative or is not enacted or as enacted does not amend that section, and (4) this bill is enacted after SB 410, in which case Section 3 of this bill shall not become operative.

CHAPTER 1075

An act to amend Sections 1255 and 1255.5 of, and to add and repeal Part 1.85 (commencing with Section 444) to Division 1 of, the Health and Safety Code, relating to health.

[Approved by Governor September 27, 1985 Filed with Secretary of State September 27, 1985]

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

SECTION 1. Part 1.85 (commencing with Section 444) is added to Division 1 of the Health and Safety Code, to read:

PART 1.85. HEALTH CARE PILOT PROJECT

444. The Legislature hereby finds and declares all of the following:

(a) Currently cardiac catheterization diagnostic procedures are performed almost exclusively in a general acute care hospital setting, generally on an inpatient basis. The procedure is relatively costly, as are many of the inpatient diagnostic procedures that rely heavily on expensive high technology.

(b) Recent advances in technology indicate the feasibility of performing high quality, safe diagnostic cardiac catheterization procedures in a freestanding cardiac catheterization laboratory. This could lower the cost for the diagnostic procedure, as well as obviate the need in many instances for an expensive hospital stay.

(c) Prior to amending the law to permit cardiac catheterization to be performed in a nonhospital setting, it is the intent of the Legislature that cardiac catheterization performed in freestanding cardiac catheterization laboratories be evaluated on a pilot project basis and demonstrated to be a safe, high quality, cost-effective diagnostic modality.

(d) It is further the intent of the Legislature that a pilot program

be authorized under the supervision of the Office of Statewide Health Planning and Development, and that the office report back to the Legislature its findings and recommendations on the pilot program.

444.1. As used in this part, the following terms mean:

(a) "Freestanding cardiac catheterization" means the performance of coronary angiography in a laboratory separate from a general acute care hospital. For the purpose of this part, at least one pilot site shall include the use of state-of-the-art digital electronic computer technology with simultaneous multiplane dynamic imaging capabilities and 1024x1024 resolution and 512x512 at 30 FPS or comparable technology.

(b) "Freestanding cardiac catheterization laboratory" means a laboratory, separate from a general acute care hospital, where outpatient cardiac catheterization procedures may be performed pursuant to this part.

(c) "Office" means the Office of Statewide Health Planning and Development.

(d) "State department" means the State Department of Health Services.

(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 and shall not be performed in freestanding cardiac catheterization laboratories designated pursuant to this part. For purposes of this section, a pediatric patient is a patient who, as of the date of the medical procedure, has not reached his or her 18th birthday.

444.2. The Office of Statewide Health Planning and Development may establish and administer a pilot program to test the safety and cost effectiveness of performing cardiac catheterization in freestanding cardiac catheterization laboratories. The office may approve up to five freestanding cardiac catheterization laboratories for inclusion under the pilot program.

444.3. Persons who wish to establish freestanding cardiac catheterization laboratories shall make application to the office for inclusion in the pilot program on forms provided by the office. Applicants shall submit a separate application for each proposed pilot site. The forms shall require the information determined to be needed by the office. At a minimum, the forms shall require the effective date for initiating pilot project services, the general service area and a description of the population to be served, a detailed description of the services to be provided, and a description of backup emergency services, the availability of comprehensive care, and the qualifications of the general acute care hospital providing the emergency treatment, curricula vitae for the laboratory directors

and key staff, and internal quality assurance criteria and procedures.

444.4. Each freestanding cardiac catheterization laboratory shall be under the direction of a physician and surgeon with demonstrated expertise in performing cardiac catheterization.

All physicians and surgeons performing cardiac catheterization in freestanding laboratories shall be board-eligible or board-certified by the American Board of Internal Medicine, with subspeciality certification in cardiovascular disease, or board-eligible or board-certified by the American Board of Radiology, with specialty certification in diagnostic radiology and demonstrated competence in performing cardiac catheterization.

Other desirable qualifications include membership in the Society of Cardiovascular and Interventional Radiology, the North American Society of Cardiac Radiology, the Society for Cardiac Angiography, or similar equivalent expertise.

The office shall determine whether or not an applicant's qualifications meet the requirements of this section. The office shall have the discretion to approve equivalent qualifications in consultation with the technical advisory committee.

444.5. As a condition of participation in the pilot program, each applicant shall agree to provide the statistical data and patient information that the office deems necessary for effective evaluation, at such times as the office requires. It is the intent of the Legislature that the office shall develop procedures to ensure the confidentiality of patient information, and shall only disclose patient information, including names, as is necessary to this part or any other law.

The office may suspend or withdraw approval of pilot programs with notice, but without hearing, if the office determines that patient safety is or may be jeopardized. A pilot program shall have the right to appeal a suspension to the director of the office but shall not resume performing freestanding cardiac catheterization services pending a favorable outcome of the appeal.

The office may suspend or withdraw approval of pilot projects for reasons other than patient safety, including any violations of the agreement to participate in the pilot program, but in such instances, the office shall give notice to the pilot project director and afford an opportunity to be heard

444.6. The office shall appoint a technical advisory committee to advise the office on the administration of this part. The technical advisory committee shall include, but not necessarily be limited to, a representative of the state department and at least four physicians and surgeons who have specialized training and experience in the field of cardiovascular disease or diagnostic radiology, with training in cardiovascular disease. These physicians should have affiliation with major teaching institutions.

A member of the Technical Advisory Committee shall not be an officer of or a director of any freestanding cardiac catheterization laboratory or have any significant beneficial or ownership interest in any freestanding cardiac catheterization laboratory designated

pursuant to this part. The office shall not consider the application of a person or business entity wishing to establish a freestanding cardiac catheterization laboratory if a member of the technical advisory staff will be the laboratory director or be on the staff of or be an officer of or director of or have a beneficial or ownership interest in the proposed freestanding cardiac catheterization laboratory.

Members of the advisory committee shall be reimbursed for any actual and necessary expenses incurred in connection with their duties as members of the committee.

Duties of the committee shall include, but not be limited to, advising the office on standards and criteria for approving pilot projects, advising the office on the implementation and ongoing monitoring of the pilot program, and advising the office on the evaluation of the results of the pilot program.

444.7. The office shall submit a report to the Legislature on the progress of the pilot program on or before July 1, 1988. The report shall include, but not be limited to, an evaluation of the cost, safety, and quality of care and quality of studies produced by the pilot projects. The report shall also include a recommendation as to whether freestanding cardiac catheterization should be continued, and if so, under what conditions. The report shall include a comparison of procedures in freestanding cardiac catheterization laboratories with those performed in general acute care hospitals.

444.8. The office shall establish, at a minimum, spatial, staffing and equipment requirements for laboratories participating in the pilot program.

Protocols for the performance of freestanding cardiac catheterization procedures on an outpatient basis shall be established by the office. The protocols shall include, but not be limited to, criteria for the selection of patients or exclusion of patients from the performance of freestanding cardiac catheterization, equipment, and procedures necessary for the stabilization of patients in emergency situations prior to transfer, and criteria for patient transfer arrangements in emergency situations, which shall be in accordance with the standards established by the Emergency Medical Services Authority. No other health facility or clinic licensing or certification requirements shall be required for the performance of freestanding cardiac catheterization. The office may consult with the state department as necessary. The office may contract for specialized medical consultation, or other personnel or other services as necessary for the effective implemention of this part.

Each cardiac catheterization laboratory shall assure the office that patients examined by this program have given written informed consent.

444.9. The regulations the office adopts to implement this part shall be adopted as emergency regulations in accordance with Section 11346.1 of the Government Code, except that the regulations shall be exempt from the requirements of subdivisions (e), (f), and

(g) of that section. The regulations shall be deemed to be an emergency for the purposes of Section 11346.1 of the Government Code and shall remain in effect until January 1, 1989, unless amended or repealed by the office.

444.10. The office may charge participating laboratories in the pilot program a reasonable fee, not to exceed the cost of administering this part.

444.11 This part 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.

SEC. 2. 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.

For purposes of this section, multispecialty clinic as defined in subdivision (*l*) of Section 1206 includes an entity in which the multispecialty clinic holds at least a 50 percent general partner interest and maintains responsibility for the management of the service, if all of the following requirements are met:

(1) The multispecialty clinic existed as of March 1, 1983.

(2) Prior to March 1, 1985, the multispecialty clinic did not offer cardiac catheterization services, dynamic multiplane imaging, or other types of coronary or similar angiography.

(3) The multispecialty clinic creates only one entity that operates its service at one site.

(4) These entities shall have the equipment and procedures necessary for the stabilization of patients in emergency situations prior to transfer and patient transfer arrangements in emergency situations which shall be in accordance with the standards established by the Emergency Medical Services Authority including the availability of comprehensive care and the qualifications of any general acute hospital expected to provide emergency treatment.

Except as provided in Part 1.85 (commencing with Section 444) of Division 1, 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 this definition as of March 1, 1983.

SEC. 3. Section 1255.5 of the Health and Safety Code is amended to read:

1255.5. For purposes of Section 1255, the following definitions 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, except as provided in subdivision (e). 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. Except as provided in Part 1.85 (commencing with Section 444) of Division 1, 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 this 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 in its own facility or in a general acute care hospital which is physically connected to it, 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.

SEC. 4. Section 1255.5 of the Health and Safety Code is amended to read:

1255.5. For purposes of Section 1255, the following definitions 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, except as provided in subdivision (e). 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.

(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 in its own facility or in a general acute care hospital which is physically connected to it, 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.

SEC. 5. Section 2 of this act shall become operative only if SB 410 of the 1985–86 Regular Session is operative.

SEC. 6. Section 4 of this bill incorporates amendments to Section 1255.5 of the Health and Safety Code proposed by both this bill and SB 410. It shall only become operative if (1) both bills are enacted and become effective January 1, 1986, (2) each bill amends Section 1255.5 of the Health and Safety Code, (3) SB 554 is not enacted, and (4) this bill is enacted after SB 410, in which case Section 3 of this bill shall not become operative.

SEC. 7. This act shall not become operative if Senate Bill 554 of the 1985–86 Regular Session is chaptered.

CHAPTER 1076

An act to amend Sections 1255 and 1255.5 of the Health and Safety Code, relating to health.

[Approved by Governor September 27, 1985. Filed with Secretary of State September 27, 1985]

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

SECTION 1. 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.

For purposes of this section, multispecialty clinic as defined in subdivision (*l*) of Section 1206 includes an entity in which the multispecialty clinic holds at least a 50 percent general partner interest and maintains responsibility for the management of the service, if all of the following requirements are met:

(1) The multispecialty clinic existed as of March 1, 1983.

(2) Prior to March 1, 1985, the multispecialty clinic did not offer cardiac catheterization services, dynamic multiplane imaging, or other types of coronary or similar angiography.

(3) The multispecialty clinic creates only one entity that operates its service at one site.

(4) These entities shall have the equipment and procedures necessary for the stabilization of patients in emergency situations prior to transfer and patient transfer arrangements in emergency situations which shall be in accordance with the standards established by the Emergency Medical Services Authority including the availability of comprehensive care and the qualifications of any general acute hospital expected to provide emergency treatment.

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 this definition as of March 1, 1983.

SEC. 2. 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.

For purposes of this section, multispecialty clinic as defined in

subdivision (*l*) of Section 1206 includes an entity in which the multispecialty clinic holds at least a 50 percent general partner interest and maintains responsibility for the management of the service, if all of the following requirements are met:

(1) The multispecialty clinic existed as of March 1, 1983.

(2) Prior to March 1, 1985, the multispecialty clinic did not offer cardiac catherterization services, dynamic multiplane imaging, or other types of coronary or similar angiography.

(3) The multispecialty clinic creates only one entity that operates its service at one site.

(4) These entities shall have the equipment and procedures necessary for the stabilization of patients in emergency situations prior to transfer and patient transfer arrangements in emergency situations which shall be in accordance with the standards established by the Emergency Medical Srvices Authority including the availability of comprehensive care and the qualifications of any general acute hospital expected to provide emergency treatment.

Except as provided in Part 1.85 (commencing with Section 444 of Division 1, 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 this definition as of March 1, 1983.

SEC. 3. Section 1255.5 of the Health and Safety Code is amended to read:

1255.5. For purposes of Section 1255, the following definitions 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.

(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.

SEC. 4. Section 1255.5 of the Health and Safety Code is amended to read:

1255.5. For purposes of Section 1255, the following definitions 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, except as provided in subdivision (e). 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.

(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 in its own facility or in a general acute care hospital which is physically connected to it, 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.

SEC. 5. Section 2 of this act shall become operative only if SB 554

or AB 1086 of the 1985–86 Regular Session is operative and in which case Section 1 of this act shall not become operative.

SEC. 6. (a) Section 4 of this bill incorporates amendments to Section 1255.5 of the Health and Safety Code proposed by both this bill and SB 554. It shall become operative if (1) both bills are enacted and become effective January 1, 1986, (2) each bill amends Section 1255.5 of the Health and Safety Code, and (3) AB 1086 does not become operative or is not enacted or as enacted does not amend that section, and (4) this bill is enacted after SB 554, in which case Section 3 of this bill shall not become operative.

(b) Section 4 of this bill incorporates amendments to Section 1255.5 of the Health and Safety Code proposed by both this bill and AB 1086. It shall become operative if (1) both bills are enacted and become effective January 1, 1986, (2) each bill amends Section 1255.5 of the Health and Safety Code, (3) SB 554 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 1086 in which case Section 3 of this bill shall not become operative.

CHAPTER 1077

An act to repeal Section 1028 of, the Evidence Code, relating to privileges.

[Approved by Governor September 27, 1985 Filed with Secretary of State September 27, 1985]

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

SECTION 1. Section 1028 of the Evidence Code, as added by Chapter 1396 of the Statutes of 1970, is repealed.

SEC. 2. Section 1028 of the Evidence Code, as added by Chapter 1397 of the Statutes of 1970, is repealed.

CHAPTER 1078

An act to amend Section 41422 of the Education Code, relating to schools.

[Approved by Governor September 27, 1985 Filed with Secretary of State September 27, 1985]

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

SECTION 1. Section 41422 of the Education Code is amended to read:

41422. A district which is prevented from maintaining its schools during a fiscal year for at least 175 days because of fire, flood, or

epidemic, or because of any order of any military officer of the United States or of the state to meet an emergency created by war, or of any civil officer of the United States, of the state, or of any county, city and county, or city authorized to issue such order to meet an emergency created by war, or because of other extraordinary conditions, or because of inability to secure or hold a teacher, or because of the illness of the teacher, which fact shall be shown to the satisfaction of the Superintendent of Public Instruction by the affidavits of the members of the governing board of the school district and of the county superintendent of schools, shall receive the same apportionment from the State School Fund as it would have received had it not been so prevented from maintaining school for at least 175 days.

This section shall also apply to districts which, in the absence of one or more of the conditions prescribed by this section, would have qualified for funds under Sections 46200 or 46201.

CHAPTER 1079

An act relating to public utilities, and making an appropriation therefor.

[Approved by Governor September 27, 1985 Filed with Secretary of State September 27, 1985.]

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

SECTION 1. (a) The Legislature finds and declares as follows:

(1) There is confusion and misunderstanding among the people of California over the implications of recent federally initiated changes within the telecommunications marketplace including the American Telephone and Telegraph Corporation divestiture which resulted in the creation of 11 local telephone service areas within the state and the commencement of competitive services between these service areas.

(2) The Public Utilities Commission, pursuant to its regulation of the furnishing of telephone service within these services areas, is or will be required to make a variety of decisions regarding the proper degree of regulation or deregulation or open competition because of the recently changed regulatory climate involving telephone services.

(3) The Federal Communications Commission encourages states to permit increased competition within the telecommunications marketplaces, and many states have either experimented with, or instituted degrees of, competition within their jurisdictions.

(4) The Public Utilities Commission has been considering several options with respect to competition within various telecommunications marketplaces, but lacks information pertaining

to California telecommunications markets, experience with competitive markets, and adequate staff to thoroughly study and determine the most advantageous competitive environment for the telecommunications network in this state.

(b) It is, therefore, the intent of the Legislature, in enacting this act, to require the Public Utilities Commission to study the implications and ramifications of modifying or removing regulatory barriers to competition in different sectors of the telecommunications marketplaces and to report to the Legislature on the feasibility of instituting a degree of deregulation or complete open competition in the furnishing of specific telephone services or all telephone services within one or more or all 11 service areas.

SEC. 2. (a) The Public Utilities Commission shall conduct a study of the feasibility of selecting one of the 11 telephone service areas in the state, or other workable and convenient area or one or more telephone services, or both, for study, for purposes of creating a working informational model of local telephone services provided pursuant to conditions of partial deregulation or open competition in a manner that will permit the commission to monitor the effects of partial deregulation or open competition on telephone services, telephone corporations, and telephone subscribers. The commission shall accumulate and evaluate this information for its report and recommendations.

(b) The study shall include, but not be limited to, all of the following:

(1) The basis for the commission's recommendation of the telephone service or services or service area or other area selected for the study, giving consideration to factors of geography and population.

(2) The staffing and other support requirements of the commission in undertaking the establishment, monitoring, and evaluation of the working informational model.

(3) A comparative analysis of the effects of partial deregulation and of open competition on service both within the area of the working informational model and to and from points outside the area of the model, including an analysis of the advantages and disadvantages to telephone service subscribers of partial deregulation and open competition over the present system of regulated services.

(4) An anaylsis of the experience and recommendations of any other states which have provided any degree of deregulation or open competition in the furnishing of local telephone service.

(c) The commission may employ staff and consultant services for purposes of this act.

(d) The commission shall report its findings and recommendations, including recommendations for any needed legislative changes, to the Legislature on or before January 1, 1987.

SEC. 3. The Public Utilities Commission shall carry out the study required by Section 2 of this act to the extent that funds are made

available for this purpose.

SEC. 4. The sum of one hundred eighty-four thousand dollars ($184,000) is hereby appropriated from the Public Utilities Commission Utilities Reimbursement Account in the General Fund to the Public Utilities Commission for purposes of Section 2 of this act.

CHAPTER 1080

An act to add and repeal Article 6 (commencing with Section 1160) of Chapter 8 of Part 2 of Division 1 of the Health and Safety Code, and to amend Sections 5705.2 and 14133.51 of the Welfare and Institutions Code, relating to public health.

[Approved by Governor September 27, 1985 Filed with Secretary of State September 27, 1985]

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

SECTION 1. Article 6 (commencing with Section 1160) is added to Chapter 8 of Part 2 of Division 1 of the Health and Safety Code, to read:

Article 6. County Public Health Pilot Project

1160. The state department shall administer a pilot project in accordance with this article. The purposes of this program are all of the following:

(a) To enable the county which participates in a pilot project, pursuant to this article, to plan, implement, and administer preventive health programs with minimum state control and intervention.

(b) To enable the state department to maintain the ability to monitor and review the quality and quantity of health services delivered in the pilot county.

(c) To test the feasibility of a modified method of funding health care services delivered by the county.

(d) To eliminate duplication of effort and unneeded paperwork by establishing a single format for describing, budgeting, monitoring, and reporting health care services delivered by the counties.

Nothing in this article shall affect funding which is provided from the state directly to a city or community-based organizations, separate and apart from those funds received by the pilot county.

1161. The pilot project shall include those services authorized under all of the following:

(a) The child health and disability prevention program under Article 3.4 (commencing with Section 320) of Chapter 2 of Part 1.

(b) The dental disease prevention program under Article 4.5

(commencing with Section 360) of Chapter 2 of Part 1.

(c) California immunization assistance under Section 3388, including Section 429.64.

(d) The maternal and child health program under Article 3 (commencing with Section 300) of Chapter 2 of Part 1.

(e) The preventive health care for the aging program under Chapter 6.5 (commencing with Section 18375) of Part 6 of Division 9 of the Welfare and Institutions Code.

(g) County health services under Part 4.5 (commencing with Section 16700) of the Welfare and Institutions Code.

1162. Notwithstanding any other provision of the law, the director shall negotiate net amount contracts with the County of Alameda if the county requests and the department selects the county for participation in the pilot program, in lieu of any grant, allocation, reporting, or reimbursement procedure specified for any service described in Section 1161. The director shall retain responsibility to monitor contract performance and to assure compliance of the contract counties with the provisions of the contract. Provisions of the net amount contract shall meet all of the following criteria:

(a) Compliance with requirements for an adequate quality and quantity of services.

(b) Provision for access to services by patients residing within the contracting county.

(c) Any statistical or cost reporting mutually agreed to by the parties, but sufficient to meet the audit and compliance requirements of existing law.

(d) Access, for audit purposes, to county financial and service records by the state department.

(e) A negotiated net amount contract shall not preclude the county from subcontracting to purchase all or part of the delivery of health services from health providers, consistent with applicable state law and county charters and ordinances.

(f) Compliance with the requirement that all funds paid out by the state under this article shall be used exclusively by the county for the purpose of providing health services, in accordance with existing law governing recoupment of funds for noncompliance, eligibility, access and service levels for the services described in Section 1161.

(g) The methods of administration which both parties mutually agree to be necessary to secure or maintain maximum funding under federal laws applicable to the services described in Section 1161.

(h) Contracts entered into under this section shall be exempt from all the requirements contained in the Public Contract Code, and the State Administrative Manual, and shall be exempt from any approval by the Department of General Services.

(i) Provision for service level detail specific to each service described in Section 1161. Services shall be maintained at the same level of effort as in the 1985–86 fiscal year, for the duration of the pilot project.

(j) Compliance with the requirement that expenditures for administrative costs will not exceed the percentage that is equal to the maximum percentage of administrative cost allowed any county that does not participate in the pilot project.

1163. On or before March 1 of each year, beginning in 1986, the governing body of Alameda County shall submit to the state department a report of a public hearing held not more than 60 days prior to the submission of the report at which the governing body considered public comment concerning the services to be provided by contract during the following fiscal year. The report shall include the impact on consumers resulting from any proposed changes in services, and specific administrative costs expended to provide the services in the previous fiscal year as well as those same costs as budgeted for the following fiscal year.

1164. The county shall bear the financial risk in providing any and all health services to the populations described and enumerated in the approved contract within the net amount.

1165. A negotiated net amount shall be determined by calculating the total budget for services, less the amount of projected revenue. This net amount shall be negotiated between the county and the state department for each year of the pilot project except that the first year shall be based on the previous year level of funding adjusted by the cost of living for the programs listed in Section 1161 as provided by the Legislature in the Budget Act. The net amount shall include any federal, state, county or private funds required by the programs listed in Section 1161. Once the negotiated net amount is agreed to by both parties, all participating government funding sources, except for the Medical Assistance Program under Title XIX of the federal Social Security Act (42 U.S.C. Sec. 1396 et seq.) and Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code, shall be bound to that amount as the cost of providing all or part of the health services as described in the contract. All revenues and reimbursements collected from third party sources described in the contract or its attachments shall be used for health purposes. Absent a finding of fraud, abuse, or failure to achieve contract objectives, no restrictions, other than those contained in the contract, shall be placed upon a county's expenditure or retention of funds received pursuant to this article.

1166. Notwithstanding any provisions of law to the contrary, all services delivered by the county participating in a pilot project pursuant to this article or its subcontractors under the Medical Assistance Program, Title XIX of the federal Social Security Act (42 U.S.C. Sec. 1396 et seq.) and Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code may be reimbursed at a negotiated rate that shall be fixed and not subject to adjustment to cost. The rate shall be negotiated between the California Medical Assistance Commission and the pilot county electing to participate under this article, and shall be binding on the state department for the purposes of this pilot project. A single,

countywide rate shall be negotiated for hospital inpatient, hospital skilled nursing, skilled nursing facility and outpatient clinic services. Rates shall be renegotiated annually, and shall be retroactive to the beginning of the fiscal year to which they apply.

1167. Contracts negotiated pursuant to Section 1162 shall be negotiated by October 15 of the fiscal year to which they apply and shall be retroactive to July 1 of that fiscal year. The first contract shall commence July 1, 1986. If the state department and the pilot county cannot reach agreement by October 15 for any given year, negotiations are terminated, and the county shall be paid at the prior year's negotiated rate adjusted to reflect the medical component of the cost-of-living increase for the previous fiscal year for the Standard Metropolitan Statistical Area in which the county is located for the remainder of that annual year (July 1 through December 31). The county terminating from the pilot project will thereafter revert to reimbursement formulas existing outside of this article. Either party terminating under this section, shall provide the other with 30 days' advance written notification. Contracts may be renegotiated during the year as may be necessary to reflect substantial changes in any element of the services described in the contract, pursuant to the procedures specified in subdivision (i) of Section 1162.

1168. Reimbursements under this contracting procedure shall be monthly in advance, in amounts which are as nearly equal to one another as possible, except for services provided under Title XIX of the federal Social Security Act (42 U.S.C. Sec. 1396 et seq.) and Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code, which shall be reimbursed in a way and in the form specified by the contract.

1169. Disputes which occur between counties concerning the residence of a recipient or potential recipient of services funded under this article shall be resolved pursuant to Section 10806 of the Welfare and Institutions Code.

1170. The state department shall adopt any regulations necessary to implement this article. The state department may adopt these regulations on an emergency basis pursuant to Article 5 (commencing with Section 11346) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code, based on the finding by the state department that these regulations are necessary to assure that counties receive funding for health services on a timely basis in order to promote and protect the health and safety of the people of this state.

1171. The state department shall obtain from the federal government any approval for pilot projects or waivers which are necessary to carry out this article.

1172. The department shall submit an evaluation report to the Legislature by June 30, 1988, regarding the effectiveness of the pilot program in meeting the objectives of this article in accordance with the article.

1173. This article shall remain in effect only until June 30, 1988,

and as of that date is repealed, unless a later enacted statute, which is chaptered before that date deletes or extends that date.

SEC. 2. Section 5705.2 of the Welfare and Institutions Code, as amended by Section 59 of Chapter 1327 of the Statutes of 1984, 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. 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. Once the negotiated net amount is approved by the State Department of Mental Health, all participating government funding sources, except for the Medi-Cal program (Chapter 7 (commencing with Section 14000) of Part 3 of Division 9), 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 plan for each fiscal year to the extent that the governmental funding source participates in funding the county mental health program. 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.

Notwithstanding any other provision of this division or Division 9 (commencing with Section 10000), absent a finding of fraud, abuse, or failure to achieve contract objectives, no restrictions, other than any contained in the contract, shall be placed upon a provider's

expenditure or retention funds received pursuant to this paragraph.

(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. Once this rate is approved by the State Department of Mental Health, all participating governmental funding 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. 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.

Notwithstanding any other provision of this division or Division 9 (commencing with Section 10000), absent a finding of fraud, abuse, or failure to achieve contract objectives, no restrictions, other than any contained in the contract, shall be placed upon a provider's expenditure or retention of funds received pursuant to this paragraph.

(c) The director may negotiate net amount contracts between counties and the State Department of Mental Health in lieu of the 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), but shall be exempt from the requirements contained in the Public Contract Code and the State Administrative Manual, and shall be exempt from approval by the Department of General Services.

(d) 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.

(e) 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.

(f) 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.

(g) By April 1, 1989, the State Department of Mental Health shall submit to the Legislature an evaluation of the extent to which the objectives of negotiated net amount contracts have been met, including, but not limited to:

(1) Increased use of less restrictive treatment alternatives.

(2) Decreased rates compared to rates for similar services provided in counties that remain under the actual cost-reimbursement methodology.

(3) Quality and quantity of services and access to services equal to or better than the quality and quantity of services provided prior to negotiating the net amount contract.

(4) Reduction of state hospital utilization.

(h) This section shall remain in effect only until July 1, 1989, and as of such date is repealed, unless a later enacted statute, which is chaptered before July 1, 1989, deletes or extends such date.

SEC. 3. Section 5705.2 of the Welfare and Institutions Code, as added by Section 60.2 of Chapter 1327 of the Statutes of 1984, 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. 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 provider shall be compensated for work performed pursuant to the contract in accordance with the provisions of Section 5705. Once the negotiated net amount is approved by the State Department of Mental Health, all participating government funding sources, except for the Medi-Cal program (Chapter 7 (commencing with Section 14000) of Part 3 of Division 9), 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 plan for each fiscal year to the extent that the governmental funding source participates in funding the county mental health program. 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.

Notwithstanding any other provision of this division or Division 9 (commencing with Section 10000), absent a finding of fraud, abuse, or failure to achieve contract objectives, no restrictions, other than any contained in the contract, shall be placed upon a provider's expenditure or retention of funds received pursuant to this paragraph.

(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 of the contract, the provider shall be compensated for work performed pursuant to the contract in accordance with the provisions of Section 5705. 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. 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.

Notwithstanding any other provision of this division or Division 9 (commencing with Section 10000), absent a finding of fraud, abuse, or failure to achieve contract objectives, no restrictions, other than any contained in the contract, shall be placed upon a provider's expenditure or retention of funds received pursuant to this paragraph.

This section shall become operative July 1, 1989.

SEC. 4. Section 14133.51 of the Welfare and Institutions Code is amended to read:

14133.51. Notwithstanding Section 14133.5, the Alameda County pilot program, as established in Section 14133.5, shall be a permanent program.

SEC. 5. The program set forth in subdivision (e) of Section 1161 of the Welfare and Institutions Code, as added by this act, shall not be included in the pilot program established by Section 1 of this bill if Assembly Bill 2001 of the 1985–86 Regular Session is enacted.

CHAPTER 1081

An act to amend and repeal Section 5600 of the Welfare and Institutions Code, relating to community mental health funding.

[Approved by Governor September 27, 1985. Filed with Secretary of State September 27, 1985.]

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

SECTION 1. Section 5600 of the Welfare and Institutions Code is amended to read:

5600. This part shall be known and may be cited as the Short-Doyle Act. This part is intended to organize and finance community mental health services for the mentally disordered in every county through locally administered and locally controlled community mental health programs. It is furthermore intended to better utilize existing resources at both the state and local levels in order to improve the effectiveness of necessary mental health services; to integrate state-operated and community mental health programs into a unified mental health system; to ensure that all mental health professions be appropriately represented and utilized in such mental health programs; to provide a means for participation by local governments in the determination of the need for and the allocation of mental health resources; to establish a uniform ratio of local and state government responsibility for financing mental health services; and to provide a means of allocating state mental health funds equitably among counties according to community needs.

Available funding for local programs, beyond the current base plus any cost-of-living adjustment granted by the Legislature, shall be allocated to counties based upon relative need, defined and appropriately revised by the department on an annual basis as the percentage of total state population and total state poverty population residing in that county. By January 1, 1987, the department shall submit to the Legislature data on the actual numbers of persons served and applicants awaiting service in each county to be considered as a part of the formula in the future. However, until equity of funding between counties is achieved, the allocation of funds shall also take into account the difference between relative needs, as defined above, and current relative resources, defined as the percentage of total state mental health funding currently allocated thereto, in such a manner that progress toward equity is reasonably assured provided, however, that no county allocation may be decreased for this purpose.

If state financing problems require a decrease in the department's total allocation and the amount available for local programs, the director shall distribute funds to each county based upon a method which takes into primary account the issue of equity of funding among the counties.

The goals of the community mental health programs provided under this part are:

(a) To assist persons who are institutionalized, or who have a high risk of becoming institutionalized, because of a mental disorder, to lead lives which are as normal and independent as possible,

consistent with their individual capacities and desires.

(b) To assist persons who experience temporary psychological problems, which disrupt normal living, to return as quickly as possible to a functioning level which enables them to cope with the problems of everyday life.

(c) To prevent serious mental disorders and psychological problems.

(d) This section shall remain in effect only until January 1, 1989, and as of that date is repealed, unless a later enacted statute, which is 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 5600 of the Welfare and Institutions Code as amended by Chapter 1327 of the Statutes of 1984, shall have the same force and effect as if this temporary provision had not been enacted.

CHAPTER 1082

An act to add and repeal Section 6354 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 27, 1985 Filed with Secretary of State September 27, 1985]

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

SECTION 1. Section 6354 is added to the Revenue and Taxation Code, to read:

6354. There are exempted from the taxes imposed by this part, the gross receipts from the sales of commemorative "California Gold" medallions produced and sold in accordance with Chapter 25 (commencing with Section 7551) of Division 7 of Title 1 of the Government Code, and the storage, use, or other consumption in this state of commemorative "California Gold" medallions so produced and sold.

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 enacted before that date deletes or extends the date.

SEC. 2. Nothwithstanding 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 1083

An act to amend Section 6006.5 of the Revenue and Taxation Code, relating to business permits, to take effect immediately, tax levy.

[Approved by Governor September 27, 1985 Filed with Secretary of State September 27, 1985]

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

SECTION 1. Section 6006.5 of the Revenue and Taxation Code is amended to read:

6006.5. "Occasional sale" includes all of the following:

(a) A sale of property not held or used by a seller in the course of activities for which he or she is required to hold a seller's permit or permits or would be required to hold a seller's permit or permits if the activities were conducted in this state, provided that the sale is not one of a series of sales sufficient in number, scope, and character to constitute an activity for which he or she is required to hold a seller's permit or would be required to hold a seller's permit if the activity were conducted in this state.

(b) Any transfer of all or substantially all the property held or used by a person in the course of those activities when after the transfer the real or ultimate ownership of the property is substantially similar to that which existed before the transfer. For the purposes of this section, stockholders, bondholders, partners, or other persons holding an ownership interest in a corporation or other entity are regarded as having the "real or ultimate ownership" of the property of the corporation or other entity.

(c) A sale of property by a producer of hay, other than hay, provided that the sale is not one of a series of sales sufficient in number, scope, or character to constitute an activity for which the producer would be required to hold a seller's permit if the producer were not also selling hay.

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 California Constitution and shall go into immediate effect. However, the provisions of this act shall become operative on the first day of the calendar month commencing after the effective date of this act.

CHAPTER 1084

An act to add Section 798.17 to the Civil Code, relating to mobilehome parks.

[Approved by Governor September 27, 1985 Filed with Secretary of State September 27, 1985]

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

SECTION 1. Section 798.17 is added to the Civil Code, to read:

798.17. (a) Rental agreements meeting the criteria of subdivision (b) shall be exempt from any ordinance, rule, regulation, or initiative measure adopted by any local governmental entity which establishes a maximum amount that a landlord may charge a tenant for rent. The terms of such a rental agreement shall prevail over conflicting provisions of such an ordinance, rule, regulation, or initiative measure limiting or restricting rents in mobilehome parks only during the term of the rental agreement or one or more uninterrupted, continuous extensions thereof. If the rental agreement is not extended and no new rental agreement in excess of 12 months' duration is entered into, then the last rental rate charged for the space under the previous rental agreement shall be the base rent for purposes of applicable provisions of law concerning rent regulation, if any.

The first paragraph of a rental agreement entered into pursuant to this section shall contain a provision notifying the homeowner that the agreement will be exempt from any ordinance, rule, regulation, or initiative measure adopted by any local governmental entity which establishes a maximum amount that a landlord may charge a tenant for rent.

(b) Rental agreements subject to this section shall meet all of the following criteria:

(1) The rental agreement shall be in excess of 12 months' duration.

(2) The rental agreement shall be entered into between the management and a homeowner for the personal and actual residence of the homeowner.

This section does not apply to or supersede other provisions of this part or other state law.

CHAPTER 1085

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

[Approved by Governor September 27, 1985 Filed with Secretary of State September 27, 1985]

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

SECTION 1. 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 she, 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 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 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 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 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.

(h) As used in subdivisions (c) and (d) "threatening to retaliate" means a threat to kidnap or falsely imprison, or 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 she, 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 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 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 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 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) Except as provided in subdivision (h), a person who commits an act of sodomy, and the victim is at the time incapable, because of a mental disorder or developmental or 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 for three, six, or eight years. 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 disorder or developmental or physical disability rendered the alleged victim incapable of giving consent.

(h) Any person who commits an act of sodomy, and the victim is at the time incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act, and both the defendant and the victim are at the time confined in a state hospital for the care and treatment of the mentally disordered or in any other public or private facility for the care and treatment of the mentally disordered approved by a county mental health director, 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 I (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 disorder or developmental or physical disability rendered the alleged victim incapable of giving legal consent.

(i) As used in subdivisions (c) and (d) "threatening to retaliate" means a threat to kidnap or falsely imprison, or inflict extreme pain, serious bodily injury, or death.

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 she, 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 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 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 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 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.

(h) As used in subdivisions (c) and (d) "threatening to retaliate" means a threat to kidnap or falsely imprison, or to inflict extreme pain, serious bodily injury, or death.

SEC. 4. 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 she, 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 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 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 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 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) Except as provided in subdivision (h), any person who commits an act of oral copulation, and the victim is at the time incapable, because of a mental disorder or developmental or 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 for three, six, or eight years. 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 disorder or developmental or physical disability rendered the alleged victim incapable of giving consent.

(h) Any person who commits an act of oral copulation, and the victim is at the time incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act, and both the defendant and the victim are at the time confined in a state hospital for the care and treatment of the mentally disordered or in any other public or private facility for the care and

treatment of the mentally disordered approved by a county mental health director, 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 disorder or developmental or physical disability rendered the alleged victim incapable of giving consent.

(i) As used in subdivisions (c) and (d) "threatening to retaliate" means a threat to kidnap or falsely imprison, or to inflict extreme pain, serious bodily injury, or death.

SEC. 5. Section 288a of the Penal Code is amended to read:

288a. (a) Oral copulation is the act of copulating the mouth of one person with the sexual organ or anus of another person.

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

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

(c) Any person who participates in an act of oral copulation with another person who is under 14 years of age and more than 10 years younger than he or she, 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 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 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 (1) 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, or (2) 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, or (3) where the victim is at the time incapable, because of a mental disorder or developmental or 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 for five, seven, or nine years. Notwithstanding the appointment of a conservator with respect to the victim pursuant to the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Insitutions Code), the

prosecuting attorney shall prove, as an element of the crime described under paragraph (3), that a mental disorder or developmental or physical disability rendered the alleged victim incapable of giving legal consent.

(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) Except as provided in subdivision (h), any person who commits an act of oral copulation, and the victim is at the time incapable, because of a mental disorder or developmental or 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 for three, six, or eight years. 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 disorder or developmental or physical disability rendered the alleged victim incapable of giving consent.

(h) Any person who commits an act of oral copulation, and the victim is at the time incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act, and both the defendant and the victim are at the time confined in a state hospital for the care and treatment of the mentally disordered or in any other public or private facility for the care and treatment of the mentally disordered approved by a county mental health director, 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 I (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 disorder or developmental or physical disability rendered the alleged victim incapable of giving legal consent.

(i) As used in subdivisions (c) and (d) "threatening to retaliate" means a threat to kidnap or falsely imprison, or to inflict extreme pain, serious bodily injury, or death.

SEC. 6. Section 2 of this bill incorporates amendments to Section 286 of the Penal Code proposed by this bill, SB 889, and AB 2218. It shall only become operative if (1) this bill and SB 889 are both enacted, or this bill and AB 2218 are both enacted, or this bill and SB

889 and AB 2218 all are enacted, and become effective January 1, 1986, (2) the bills which are enacted amend Section 286 of the Penal Code, and (3) this bill is enacted after SB 889, or this bill is enacted after AB 2218, or this bill is enacted after both SB 889 and AB 2218, in which case Section 1 of this bill shall not become operative.

SEC. 7. (a) Section 4 of this bill incorporates amendments to Section 288a of the Penal Code proposed by both this bill and AB 2217. It shall only become operative if (1) both bills are enacted and become effective January 1, 1986, (2) each bill amends Section 288a of the Penal Code, and (3) SB 889 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 2217, in which case Sections 3 and 5 of this bill shall not become operative.

(b) Section 5 of this bill incorporates amendments to Section 288a of the Penal Code proposed by this bill and SB 889, and as proposed by this bill, SB 889, and AB 2217. It shall only become operative if (1) this bill and SB 889 are both enacted, or this bill, AB 2217, and SB 889 all are enacted and become effective January 1, 1986, (2) the bills which are enacted amend Section 288a of the Penal Code, and (3) this bill is enacted after SB 889 or after both SB 889 and AB 2217, in which case Sections 3 and 4 of this bill shall not become operative.

CHAPTER 1086

An act to add Sections 667.9 and 667.10 to the Penal Code, relating to crimes.

[Approved by Governor September 27, 1985 Filed with Secretary of State September 27, 1985]

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

SECTION 1. It is the intent of the Legislature that the enhancements provided in Sections 12022.7 and 12022.8 shall be imposed in addition to any enhancement provided in Section 667.9 or 667.10.

SEC. 2. Section 667.9 is added to the Penal Code, to read:

667.9. (a) Any person who has a prior conviction for any of the offenses listed in subdivision (b), and who commits one or more of the crimes listed in subdivision (b) against a person who is 65 years of age or older, or against a person who is blind, a paraplegic, or a quadriplegic, or against a person who is under the age of 14 years, and that disability or condition is known or reasonably should be known to the person committing the crime, shall receive a two-year enhancement for each violation in addition to the sentence provided under Section 667.

(b) Subdivision (a) applies to the following crimes:

(1) Robbery, in violation of Section 211.

(2) Kidnapping, in violation of Section 207.

(3) Kidnapping for ransom, extortion, or robbery, in violation of Section 209.

(4) Rape by force or fear of immediate and unlawful bodily injury, in violation of subdivision (2) of Section 261.

(5) Sodomy or oral copulation by force, violence, duress, menace, or threat of great bodily harm in violation of Section 286 or 288a.

(6) Mayhem, as defined in Section 203.

(c) The existence of any fact which would bring a person under subdivision (a) shall be alleged in the information or indictment and either admitted by the defendant in open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by plea of guilty or nolo contendere or by trial by the court sitting without a jury.

SEC. 3. Section 667.10 is added to the Penal Code, to read:

667.10. (a) Any person who has a prior conviction of the offense set forth in Section 289 and who commits that crime against a person who is 65 years of age or older, or against a person who is blind, a paraplegic, or a quadriplegic, or against a person who is under the age of 14 years, and that disability or condition is known or reasonably should be known to the person committing the crime, shall receive a two-year enhancement for each violation in addition to the sentence provided under Section 289.

(b) The existence of any fact which would bring a person under subdivision (a) shall be alleged in the information or indictment and either admitted by the defendant in open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by plea of guilty or nolo contendere or by trial by the court sitting without a jury.

CHAPTER 1087

An act to amend Section 15853 of the Government Code, to amend Sections 5069.1, 5069.2, and 5069.3 of, to amend and renumber Section 5006.15 of, and to add Section 5003.17 to, the Public Resources Code, to amend Section 1 of Chapter 762 of the Statutes of 1979, and to amend Section 2 of Chapter 1266 of the Statutes of 1982, relating to public property, and making an appropriation therefor.

[Approved by Governor September 27, 1985 Filed with Secretary of State September 27, 1985]

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

SECTION 1. Section 15853 of the Government Code is amended to read:

15853. (a) The board is authorized to select and acquire, in the name of and on behalf of the state, with the consent of the state agency concerned, the fee or any lesser right or interest in any real

property necessary for any state purpose or function.

(b) Where moneys are appropriated by the Budget Act for any fiscal year or by any other act for the acquisition of land or other real property, either (1) subject to the provisions of the Property Acquisition Law or (2) for any state agency for whom property is acquired by the board, the moneys and acquisitions shall be subject to the provisions of this part and the moneys shall be expended in accordance with the provisions of this part, notwithstanding any other provisions of law.

(c) Notwithstanding any other provisions of law, all land and other real property to be acquired by or for any state agency, other than the Department of Transportation, the Department of Water Resources, the State Reclamation Board, the Department of Fish and Game, the Wildlife Conservation Board, the Public Employees' Retirement System, the State Teachers' Retirement System, and the State Lands Commission, except for property to be acquired for the State Lands Commission pursuant to an appropriation from the General Fund, shall be acquired by the State Public Works Board in accordance with the provisions of the Property Acquisition Law.

(d) (1) Notwithstanding subdivision (a), the board shall acquire, on behalf of and for the Department of Parks and Recreation, in accordance with this part, land or other real property or interests in real property, including options to purchase, which have been appraised and selected by the Department of Parks and Recreation pursuant to subdivisions (b) and (c) of Section 5006 of the Public Resources Code. Out of moneys appropriated for the acquisition of options to purchase, no more than ten thousand dollars ($10,000) may be expended for the acquisition of any single option unless otherwise provided by the Legislature.

(2) Notwithstanding Section 15854, purchase negotiations for the acquisition of any land or other real property for the state park system pursuant to subdivision (f) of Section 5006 of the Public Resources Code shall be initiated within six months of the effective date of the act which appropriates funds for the acquisition. Purchase negotiations on all projects not proposed pursuant to subdivision (f) of Section 5006 of the Public Resources Code shall be initiated within 12 months of the effective date of the act appropriating funds for the acquisition. Either title shall be conveyed or a written agreement to transfer title shall be executed within one year of the initiation of purchase negotiations unless the Department of Parks and Recreation formally abandons the acquisition prior to the conclusion of the one-year period. For the purposes of this section, in order for the Department of Parks and Recreation to "formally abandon" an acquisition, it shall transmit written notification to the board of its intent not to proceed with the acquisition.

(3) The board may, at any time during the periods specified in paragraph (2), commence condemnation proceedings if it finds it to be appropriate. However, if, within six months of the initiation of purchase negotiations, title is not conveyed or a written agreement

to transfer title is not signed, the acquisition has not been formally abandoned, or condemnation proceedings have not been commenced, the board shall immediately notify, by letter, the chair of the committee in each house of the Legislature which considers appropriations, the Chair of the Joint Legislative Budget Committee, and the Members of the Legislature within whose district any part of the land or other real property is located of the status of the acquisition. For the purpose of this paragraph, condemnation proceedings shall be deemed to be commenced as of the date the board authorizes acquisition by condemnation.

(4) Six months from the date of the notification required by paragraph (3), the board shall notify those persons specified in paragraph (3) of the status of the acquisition.

(5) The board may schedule special meetings as are necessary to expedite the acquisition of options to purchase land or other real property for the state park system.

(e) The board may acquire furnishings which the owner thereof agrees to sell and which are contained within improvements acquired by the board. Cost of acquisition of furnishings shall be charged to the appropriation available for acquisition of the real property.

SEC. 1.7. Section 5003.17 is added to the Public Resources Code, to read:

5003.17. (a) The department may lease, for any use, all or any portion of any parcel of real property acquired for state park system purposes, prior to its operation as a unit or part of a unit of the state park system open to public use, if the director finds that the use would be compatible with the ultimate contemplated use of the real property as a unit or part of a unit and with the sound management and conservation of resources within the unit.

(b) Rent shall be based on the fair market value of the property when used for the purpose for which it is leased. All rent shall be deposited pursuant to Section 5010.

(c) The lease term shall not exceed five years. All leases shall be subject to the approval of the Department of General Services.

(d) No lease shall be entered into that extends beyond the five-year period after acquisition of the property for the state park system unless the Legislature has reviewed and approved the proposed lease as part of the annual budget process, or the Public Works Board has determined that the proposed lease could not have been presented to the Legislature for review and approval in the course of its consideration of the Budget Bill and that it would be adverse to the interests of the public to defer that review and approval to a time when the Legislature next considers a Budget Bill. Upon making that determination, the board may review and approve the proposed lease after giving at least 20 days' written notice to the Chairman of the Joint Legislative Budget Committee and to the chairmen of the fiscal and appropriate policy committees of its intended action. All actions taken by the board pursuant to this

subdivision shall be reported to the Legislature in the next Governor's Budget.

SEC. 2. Section 5006.15 of the Public Resources Code is amended and renumbered to read:

5003.15. The net proceeds of any sale made on behalf of the department pursuant to Section 11011 of the Government Code of any real property originally acquired for state park purposes, regardless of whether that real property is under the jurisdiction of the department, shall be deposited in the fund which was the original source for the acquisition of the property and shall be available for appropriation for the further extension, improvement, or development of the state park system in accordance with the law governing that fund. If the fund of origin is not in existence, or if the original source for the acquisition was funds from the federal government for park purposes or a donation of real property, the net proceeds shall be deposited in the State Parks and Recreation Fund and shall be available for appropriation for the further extension, improvement, or development of the state park system. If the real property was originally acquired with moneys appropriated from the General Fund, the net proceeds shall be deposited in the unappropriated surplus of the General Fund.

This section does not apply to the sale of any real property in the state vehicular recreation area and trail system.

SEC. 2.1. Section 5069.1 of the Public Resources Code is amended to read:

5069.1. Any portion of any parcel of real property acquired for state park system purposes, which had been farmed or grazed, or otherwise used for agricultural purposes, within the 24 months immediately preceding acquisition, may be made available for lease for agricultural purposes by the department if the director makes written findings that use of the real property for agricultural purposes would be compatible with the ultimate use of the real property as a unit, or part of a unit, of the state park system and with the sound management and conservation of resources within the unit.

SEC. 2.3. Section 5069.2 of the Public Resources Code is amended to read:

5069.2. Following approval of the general plan for a unit of the state park system pursuant to Section 5002.2, all real property which has been designated in the general plan for retention in agricultural use indefinitely as a feature of that unit shall be made available for leasing by the department for agricultural purposes. In addition, any real property which will not be improved pursuant to the general plan for at least three years from the date of approval of the general plan, and which was being leased for agricultural purposes immediately prior to approval of the general plan, may continue to be available for leasing for agricultural purposes if the director makes written findings that use would be compatible with the general plan or until the commencement of improvements thereon.

SEC. 2.5. Section 5069.3 of the Public Resources Code is amended to read:

5069.3. (a) The rent for any real property leased for agricultural purposes shall be based upon the fair market value of the real property when used for agricultural purposes. All rents shall be deposited pursuant to Section 5010.

(b) A lease term may not exceed 10 years. Leases may be renewed for additional terms.

(c) Every lease entered into pursuant to this article shall be subject to approval by the Department of General Services. Every lease shall require the lessee to pay the taxes on the lessee's interest in the real property which become due, owing, or unpaid on the interest created by the lease.

SEC. 3. The Director of General Services, with the approval of the State Public Works Board and the Director of Parks and Recreation, is hereby authorized to sell, exchange, or lease for current market value and upon such terms and conditions and subject to such reservations and exceptions as the Director of General Services deems to be in the best interest of the state, all or any part of approximately 5.0 acres of vacant land, currently consisting of a part of Annadel State Park, on the westerly side of Spring Creek diversion channel in the County of Sonoma.

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 exchange upon such terms and conditions and subject to such reservations and exceptions as the Director of General Services deems to be in the best interest of the state, all or any part of approximately 5.0 acres of vacant land, being a portion of the South Yuba River Trail Project, lying approximately six miles west of Nevada City, and described as a portion of the Southeast ¼, Northwest ¼, of Section 1, Township 16 North, Range 7 East, Mount Diablo Meridian.

SEC. 4.5. The Director of General Services, with the approval of the State Public Works Board and the Director of Forestry, is hereby authorized to sell, exchange, or lease for current market value and upon such terms and conditions and subject to such reservations and exceptions as the Director of General Services deems to be in the best interest of the state, approximately 8.48 acres with structures, being the Department of Forestry's Nevada City Forest Fire Station, located on Ridge Road in the County of Nevada.

SEC. 5. 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 the director's opinion may be in the best interest of the state, all or any part of the following real property:

Parcel 2. Approximately 0.46 acre with a structure, known as 1002 Dairy Avenue, Corcoran.

Parcel 3. Approximately 0.46 acre with a structure, known as 45 Healdsburg Avenue, Healdsburg.

Parcel 4. Approximately 10 acres of vacant land lying east of the city of Palmdale in the County of Los Angeles, described as the South ½, West ½, East ½, South ½, Southeast ¼ of Section 16, Township 5 North, Range 8 West, San Bernardino Base and Meridian.

Parcel 5. Approximately 2.19 acres, being the National Guard Armory, known as 260 West Huntington Drive, Arcadia.

SEC. 6. Section 1 of Chapter 762 of the Statutes of 1979 is amended to read:

Section 1. The Director of General Services, with the approval of the State Public Works Board, is hereby authorized to sell, exchange, or lease for current market value or for any lesser consideration authorized by law, and upon such terms and conditions and with such reservations and exceptions as in his opinion may be for the best interest of the state, all or any part of the following real property:

Parcel 1. Approximately 200 acres of land in two parcels, being a portion of the Atascadero State Hospital. One parcel of about 170 acres is located along the Salinas River, north of the hospital complex. The other parcel of about 30 acres is located near the entrance to the hospital, just off of State Highway 101, all south of the City of Atascadero in San Luis Obispo County.

Parcel 2. Approximately 10 acres of land, being a portion of the Patton State Hospital, located off of Orange Street in the City of San Bernardino, County of San Bernardino.

Parcel 3. Approximately 51 acres of land with numerous buildings, being the California Schools for the Deaf and Blind, located on Warring Street in the City of Berkeley, County of Alameda.

Parcel 4. Approximately 0.42 acre of land, being a portion of the San Clemente State Beach, located on Avenida Calafia in the City of San Clemente, County of Orange, separated from the existing state beach.

Parcel 5. Approximately 0.21 acre of steep land, being a portion of the Seacliff State Beach, located off Seacliff Drive in Aptos, Santa Cruz County, separated from the state beach.

Parcel 6. Approximately 2 acres of land, being a portion of the Tule Elk Reserve, located on Tupman Road near Tupman Townsite in Kern County.

Parcel 7. Approximately 250 acres of land, being a portion of the Preston School of Industry, located on the westerly boundary of the City of Ione, Amador County, northerly of Sutter Creek and generally easterly of Mule Creek.

Parcel 8. Approximately 1.46 acres of land and a 1,500 square foot building, being the California State Lands Commission's Santa Barbara field office, located at State Highway 101 and La Cumbre Road, Santa Barbara County.

Parcel 9. Approximately 1 acre of land and improvements thereon, being the site of the Department of Forestry's Guadalupe Lookout, Mariposa County.

Parcel 10. Approximately 1.6 acres of land and improvements thereon, being the Mission Street Armory, located at the intersection of 14th and Mission Streets in the City and County of San Francisco.

Parcel 11. Approximately 13.36 acres of land, consisting of an 80-foot strip located along the westerly and southerly boundary lines of Section 15, T5N, R4W, SBB&M; and being a portion of the Mojave Wildlife Area, San Bernardino County.

SEC. 7. Section 2 of Chapter 1266 of the Statutes of 1982 is amended to read:

Sec. 2. 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 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 830 acres of land located on the east side of the Southern Pacific Railroad tracks being a portion of Castle Crags State Park, in the County of Shasta.

PARCEL 2. Approximately 0.72 acre located northerly of State Highway 1, which constitutes a portion of Malibu Lagoon State Beach in Los Angeles County.

SEC. 8. 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. 9. (a) Any cost or expense incurred in the disposition of any parcels may be reimbursed from the proceeds of that disposition.

(b) Subject to the provisions of subdivision (a), any moneys received from the disposition of any parcel described in this act shall be paid into the General Fund; except that the net proceeds of any sale of state park property shall be deposited as provided in Section 5003.15 of the Public Resources Code, and the net proceeds of the sale of Parcel 5 of Section 5 shall be deposited in the Armory Fund.

SEC. 10. 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 of entry. As to any such property sold containing more than 10 acres, the Director of General Services shall except and reserve in the state all mineral deposits, as defined in Section 6407 of the Public Resources Code, together with the right to prospect for, mine, and remove the deposits. The rights to prospect for, mine, and remove shall be limited to those areas of the property conveyed which the director, after consultation with the State Lands Commission, determines to be reasonably necessary for the removal of the resources and deposits.

SEC. 11. Pursuant to subdivision (a) of Section 5626 of the Public

Resources Code, the City of Riverside is hereby authorized to convert to a nonpark purpose all or any part of the real property known as Streeter Neighborhood Park, which was acquired with a grant of state funds appropriated in Item 227 of the Budget Act of 1977 (Chapter 219, Statutes of 1977) and disbursed pursuant to Agreement Number BG-33-202, subject to all of the following conditions:

(a) The city shall acquire fee title, with funds from nonstate sources only, to not less than five acres as substitute parklands in an area that would allow for use of the substitute parklands by generally the same persons who would have used Streeter Neighborhood Park.

(b) Prior to authorizing the conversion of Streeter Neighborhood Park, the city council shall hold at least one public hearing on the subject of the new parklands to be acquired.

(c) Prior to authorizing the conversion, the city shall enter into an agreement with the Department of Parks and Recreation with respect to the parklands to be acquired, which meets the requirements of Article 2 (commencing with Section 5624) of Chapter 3.2 of Division 5 of the Public Resources Code and provides for the disposition, for park purposes, of any net proceeds or other returns to the city derived from any future transaction involving the substitute parklands.

SEC. 12. In carrying out the requirement of subdivision (b) of Section 1 of Chapter 1549 of the Statutes of 1982 to sell excess land at the Northern California Youth Center as surplus property, the land at the center that is excess to correctional needs and is to be sold as surplus property shall consist of not less than 301.1 acres of the land currently under the jurisdiction of the Department of the Youth Authority and lying south of Arch Road, east of Newcastle Road, and west of Austin Road in the County of San Joaquin. Notwithstanding Section 11011 of the Government Code or any other provision of law, the excess land shall not be sold or otherwise transferred to any state agency.

CHAPTER 1088

An act to amend Section 632 and the heading of Article 8 (commencing with Section 631) of Chapter 3 of Part 1 of Division 1) of, and to repeal and add Section 1903 of, the Public Utilities Code, relating to the Public Utilities Commission.

[Approved by Governor September 27, 1985 Filed with Secretary of State September 27, 1985]

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

SECTION 1. The heading of Article 8 (commencing with Section 631) of Chapter 3 of Part 1 of Division 1 of the Public Utilities Code is amended to read:

Article 8. Consultant and Advisory Services

SEC. 2. Section 632 of the Public Utilities Code is amended to read:

632. For purposes of entering into contracts for consultant or advisory services, the requirements of Sections 11042 and 14615 of the Government Code and Sections 10295 and 10318 of the Public Contract Code do not apply to the activities of the commission under this part.

SEC. 3. Section 1903 of the Public Utilities Code is repealed.

SEC. 4. Section 1903 is added to the Public Utilities Code, to read:

1903. The commission shall fix the fees to be charged for the making and furnishing of copies, including certified copies, of papers, records, and documents of the commission. These charges shall as nearly as practicable reflect the costs of furnishing the materials and providing the service.

CHAPTER 1089

An act to add Section 14672.5 to the Government Code, relating to state property, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1985 Filed with Secretary of State September 27, 1985]

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

SECTION 1. Section 14672.5 is added to the Government Code, to read:

14672.5. Notwithstanding Section 14670, the Director of General Services, with the consent of the Department of Corrections, may lease to the City of Folsom a parcel of approximately five acres of unimproved real property situated in the County of Sacramento within Rancho Rio de Los Americanos for a period not to exceed 25 years for any municipal purpose.

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

In order for the City of Folsom to lease state property for a period not to exceed 25 years for municipal purposes as soon as possible, it is necessary for this act to take effect immediately.

CHAPTER 1090

An act to amend Section 6700 of, and to add Sections 435.5, 6700.2, 6700.25, 6700.3, and 6700.4 to, the Vehicle Code, relating to foreign vehicles, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1985 Filed with Secretary of State September 27, 1985]

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

SECTION 1. Section 435.5 is added to the Vehicle Code, to read:

435.5. "Nonresident daily commuter" means a person who is not a resident of this state, but who enters and leaves this state on a daily basis for the purpose of employment and whose vehicle is principally garaged out of this state.

SEC. 2. Section 6700 of the Vehicle Code is amended to read:

6700. (a) Except as provided in Section 6700.2, the owner of any vehicle of a type otherwise subject to registration under this code, other than a commercial vehicle registered in a foreign jurisdiction, may operate the vehicle in this state until gainful employment is accepted in this state or until residency is established in this state, whichever occurs first, if the vehicle displays valid license plates and has a valid registration issued to the owner, and the owner was a resident of that state at the time of issuance. Application to register the vehicle shall be made within 20 days after gainful employment is accepted in this state or residency is established in this state.

(b) A nonresident owner of a vehicle, otherwise exempt from registration pursuant to this section or Section 6700.2, may operate or permit operation of the vehicle in this state without registering the vehicle in this state if the vehicle is registered in the place of residence of the owner and displays upon it valid license plates issued by that place. This exemption does not apply if the nonresident owner rents, leases, lends, or otherwise furnishes the vehicle to a California resident for regular use on the highways of this state, as defined in subdivision (b) of Section 4000.4.

(c) Any resident who operates upon a highway of this state a vehicle owned by a nonresident who furnished the vehicle to the resident operator for his or her regular use within this state, as defined in subdivision (b) of Section 4000.4, shall cause the vehicle to be registered in California within 20 days after its first operation within this state by the resident.

(d) Nothing in this section supersedes the requirements of Section 6851.

SEC. 3. Section 6700.2 is added to the Vehicle Code, to read:

6700.2. (a) Notwithstanding Section 4000.4, subdivision (a) of Section 6700, or Section 6702, a nonresident daily commuter may operate a motor vehicle on the highways of this state only if all of the

following conditions are met:

(1) The motor vehicle is a passenger vehicle or a commercial vehicle of less than 6,000 pounds unladen weight with not more than two axles of the type commonly referred to as a pick-up truck.

(2) The motor vehicle is used regularly to transport passengers on the highways of this state principally between, and to and from, the place of residence in a contiguous state and the place of employment in this state by the owner of the motor vehicle and for no other business purpose.

(3) The motor vehicle is not used in the course of a business within this state, including the transportation of property other than incidental personal property between, and to or from, the place of residence in a contiguous state and the place of employment of the motor vehicle owner in this state.

(b) The exception to registration of a motor vehicle under the conditions specified in this section does not supersede any other exception to registration under other conditions provided by law.

SEC. 4. Section 6700.25 is added to the Vehicle Code, to read:

6700.25. (a) The department shall provide a nonresident daily commuter with external vehicle identification indicia and a corresponding identification card, upon application therefor and completion of the form required by Section 6700.3, which indicia and card shall be valid for a period of two years. A vehicle shall be exempt from Sections 4000.4 and 6700 when operated with the requisite indicia and otherwise in accordance with this chapter.

(b) Subdivision (a) applies only to residents and vehicles of residents of a contiguous state which has enacted laws that provide reciprocal privileges to California residents who are employed in the contiguous state. Subdivision (a) does not apply to residents of foreign countries.

(c) Subdivision (a) applies only to the vehicles specified in paragraph (1) of subdivision (a) of Section 6700.2.

(d) Subdivision (a) applies only to vehicles which are licensed in a foreign jurisdiction that are used to commute into California to a destination within a corridor in this state that parallels the border between California and the contiguous state and extends not more than 35 air miles into California from the border at any point. The privilege accorded by subdivision (a) shall be revoked by operation of the vehicle for commuter purposes beyond that 35-mile corridor.

(e) The department shall charge a service fee, not to exceed ten dollars ($10) for each vehicle, which fee fully covers the costs of administering this section and Section 6700.3.

SEC. 5. Section 6700.3 is added to the Vehicle Code, to read:

6700.3. (a) An application by a nonresident daily commuter for indicia and an identification card pursuant to Section 6700.25 shall be filed with the department.

(b) The department shall prescribe a form to be completed by the applicant which shall include all of the following information:

(1) The vehicle license number and the vehicle identification

number (VIN) of the vehicle that will display the nonresident daily commuter indicia.

(2) The name of the registered owner of the vehicle that will display the indicia.

(3) A statement that the applicant is a nonresident daily commuter as defined in Section 435.5.

(4) A statement that the indicia will be displayed upon a qualified vehicle as specified in Section 6700.4.

(5) A statement that the place of employment of the nonresident daily commuter is within the 35-mile corridor specified in subdivision (d) of Section 6700.25.

SEC. 6. Section 6700.4 is added to the Vehicle Code, to read:

6700.4. A nonresident daily commuter indicia shall be displayed in a location on the vehicle which is clearly visible and adjacent to the rear license plate. The corresponding nonresident daily commuter identification card shall be carried at all times in the assigned vehicle and shall be presented to any California peace officer upon demand.

SEC. 7. The Department of Motor Vehicles shall report to the Assembly Committee on Transportation not later than January 1, 1987, on whether the service fee authorized pursuant to Section 6700.25 of the Vehicle Code is adequate to fully cover administration costs of the department with respect to that section and Section 6700.3 of the Vehicle Code.

SEC. 8. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for this act to take effect as soon as possible to minimize the impact of provisions which became operative July 1, 1985, causing loss of employment in the northern portion of California, it is necessary that this act take effect immediately.

CHAPTER 1091

An act to amend Section 11126 of the Government Code, and to amend Sections 830, 833, and 7273 of, and to add Sections 5150.5 and 7273.1 to, the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 27, 1985 Filed with Secretary of State September 27, 1985]

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

SECTION 1. Section 11126 of the Government Code is amended to read:

11126. (a) Nothing contained in this article shall be construed to prevent a state body from holding closed sessions during a regular or

special meeting to consider the appointment, employment, or dismissal of a public employee or to hear complaints or charges brought against that employee by another person or employee unless the employee requests a public hearing. As a condition to holding a closed session on the complaints or charges to consider disciplinary action or to consider dismissal, the employee shall be given written notice of his or her right to have a public hearing, rather than a closed session, which notice shall be delivered to the employee personally or by mail at least 24 hours before the time for holding a regular or special meeting. If notice is not given, any disciplinary or other action taken against any employee at the closed session shall be null and void. The state body also may exclude from any such public or closed session, during the examination of a witness, any or all other witnesses in the matter being investigated by the state body. Following the public hearing or closed session, the body may deliberate on the decision to be reached in a closed session.

For the purposes of this section, "employee" shall not include any person who is elected to, or appointed to a public office by, any state body. However, officers of the California State University who receive compensation for their services, other than per diem and ordinary and necessary expenses, shall, when engaged in that capacity, be considered employees.

(b) Nothing in this article shall be construed to prevent state bodies which administer the licensing of persons engaging in businesses or professions from holding closed sessions to prepare, approve, grade, or administer examinations.

(c) Nothing in this article shall be construed to prevent an advisory body of a state body which administers the licensing of persons engaged in businesses or professions from conducting a closed session to discuss matters which the advisory body has found would constitute an unwarranted invasion of the privacy of an individual licensee or applicant if discussed in an open meeting, provided the advisory body does not include a quorum of the members of the state body it advises. Those matters may include review of an applicant's qualifications for licensure and an inquiry specifically related to the state body's enforcement program concerning an individual licensee or applicant where the inquiry occurs prior to the filing of a civil, criminal, or administrative disciplinary action against the licensee or applicant by the state body.

(d) Nothing in this article shall be construed to prohibit a state body from holding a closed session to deliberate on a decision to be reached based upon evidence introduced in a proceeding required to be conducted pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 or similar provision of law.

(e) Nothing in this article shall be construed to prevent any state body from holding a closed session to consider matters affecting the national security.

(f) Nothing in this article shall be construed to grant a right to enter any correctional institution or the grounds of a correctional

institution where that right is not otherwise granted by law, nor shall anything in this article be construed to prevent a state body from holding a closed session when considering and acting upon the determination of a term, parole, or release of any individual or other disposition of an individual case, or if public disclosure of the subjects under discussion or consideration is expressly prohibited by statute.

(g) Nothing in this article shall be construed to prevent any closed session to consider the conferring of honorary degrees, or gifts, donations, and bequests which the donor or proposed donor has requested in writing to be kept confidential.

(h) Nothing in this article shall be construed to prevent the Alcoholic Beverage Control Appeals Board from holding a closed session for the purpose of holding a deliberative conference as provided in Section 11125.

(i) Nothing in this article shall be construed to prevent the Trustees of the California State University from holding closed sessions dealing with site selection for the state university.

(j) Nothing in this article shall be construed to prevent the California Postsecondary Education Commission from holding closed sessions to consider matters pertaining to the appointment or termination of the Director of the California Postsecondary Education Commission.

(k) Nothing in this article shall be construed to prevent the Franchise Tax Board from holding closed sessions for the purpose of discussion of confidential tax returns or data the public disclosure of which is prohibited by law, or from considering matters pertaining to the appointment or removal of the executive officer of the Franchise Tax Board.

(*l*) Nothing in this article shall be construed to prevent the Board of Corrections from holding closed sessions when considering reports of crime conditions under the provisions of Section 6027 of the Penal Code.

(m) Nothing in this article shall be construed to prevent the State Air Resources Board from holding closed sessions when considering the proprietary specifications and performance data of manufacturers.

(n) Nothing in this article shall be construed to prevent a state body which invests retirement, pension, or endowment funds from holding closed sessions when considering investment decisions. For purposes of consideration of shareholder voting on corporate stocks held by the state body, closed sessions for the purposes of voting may be held only with respect to election of corporate directors, election of independent auditors, and other financial issues which could have a material effect on the net income of the corporation.

(o) Nothing in this article shall be construed to prevent a state body, or such boards, commissions, administrative officers, or other representatives as may properly be designated by law or by a state body, from holding closed sessions with its representatives in discharging its responsibilities under Chapter 10 (commencing with

Section 3500) of Division 4 of Title 1 as the sessions relate to salaries, salary schedules, or compensation paid in the form of fringe benefits. For the purposes enumerated in the preceding sentence, a state body may also meet with a state conciliator who has intervened in the proceedings.

(p) Notwithstanding any other provision of law, any meeting of the Public Utilities Commission at which the rates of entities under the commission's jurisdiction are changed shall be open and public.

Nothing in this article shall be construed to prevent the Public Utilities Commission from holding closed sessions to deliberate on the institution of proceedings, or disciplinary actions against regulated utilities.

(q) Nothing in this article shall be construed to prevent a state body from holding a closed session to confer with legal counsel regarding pending litigation when discussion in open session concerning those matters would adversely affect or be detrimental to the public interest.

(r) Nothing in this article shall be construed to prevent a state body which invests in retirement, pension, or endowment funds from holding closed sessions to confer with legal counsel regarding pending litigation, when discussion in open session concerning these matters would adversely affect, or be detrimental to, those funds. For purposes of subdivision (q) and this subdivision, litigation shall be considered pending when a complaint, claim or petition for writ of mandate has been filed, or the threat of litigation is imminent in the sound opinion of the state body.

(s) Nothing in this article shall be construed to prevent the examining committee established by the State Board of Forestry, pursuant to Section 763 of the Public Resources Code, from conducting a closed session to consider disciplinary action against an individual professional forester prior to the filing of an accusation against the forester pursuant to Section 11503.

(t) Nothing in this article shall be construed to prevent an administrative committee established by the State Board of Accountancy pursuant to Section 5020 of the Business and Professions Code from conducting a closed session to consider disciplinary action against an individual accountant prior to the filing of an accusation against the accountant pursuant to Section 11503. Nothing in this article shall be construed to prevent an examining committee established by the Board of Accountancy pursuant to Section 5023 of the Business and Professions Code from conducting a closed hearing to interview an individual applicant or accountant regarding the applicant's qualifications.

(u) Nothing in this article shall be construed to prevent a state body, as defined in Section 11121.2, from conducting a closed session to consider any matter which properly could be considered in closed session by the state body whose authority it exercises.

(v) Nothing in this article shall be construed to prevent a state body, as defined in Section 11121.7, from conducting a closed session

to consider any matter which properly could be considered in a closed session by the body defined as a state body pursuant to Section 11121, 11121.2, or 11121.5.

(w) Nothing in this article shall be construed to prevent a state body, as defined in Section 11121.8, from conducting a closed session to consider any matter which properly could be considered in a closed session by the state body it advises.

(x) Nothing in this article shall be construed to prevent the State Board of Equalization from holding closed sessions for either of the following:

(1) When considering matters pertaining to the appointment or removal of the executive secretary of the State Board of Equalization.

(2) For the purpose of hearing confidential taxpayer appeals or data, the public disclosure of which is prohibited by law.

(y) Nothing in this article shall be construed to prevent the California Earthquake Prediction Evaluation Council, or other body appointed to advise the Director of the Office of Emergency Services or the Governor pursuant to Section 8590 concerning matters relating to volcanic or earthquake predictions, from holding closed sessions when considering the evaluation of possible predictions.

SEC. 2. Section 830 of the Revenue and Taxation Code is amended to read:

830. (a) The property statement shall be filed with the board annually by April 1, and shall be in such detail as the board may prescribe.

Except as hereinafter provided, if any person fails to file the property statement, in whole or in part, by April 1, or by such later date to which the filing period is extended pursuant to Section 15620 of the Government Code, a penalty shall be added to the full value of the assessment of so much of the property as is not timely reported as follows:

(1) For any part of the property statement relating to the derivation of the unit value of operating property, the penalty shall be 10 percent of the unit value.

(2) For any part of the property statement that lists or describes specific operating property, the penalty shall be 10 percent of the allocated value of the property, which penalty shall be added to the unit value.

(3) For any part of the property statement that lists or describes specific nonoperating property, the penalty shall be 10 percent of the value of the property.

(4) If the failure to timely file a property statement is due to a fraudulent or willful attempt to evade the tax, a penalty of 25 percent of the assessed value of the estimated assessment shall be added to the assessment. A willful failure to file a property statement as required by Article 5 (commencing with Section 826) shall be deemed to be a willful attempt to evade the tax.

(5) No penalty added pursuant to paragraph (1), (2), (3), or (4)

shall exceed twenty million dollars ($20,000,000) of full value. In addition, if a penalty has been added pursuant to paragraph (1), (2), or (3), a claim for refund seeking the recovery of that penalty has been filed by the state assessee contesting the penalty within three months of the due date of the second installment, and the state assessee initiates an action in the superior court within one year of the filing of the claim for refund, the board shall not add any further penalties to any subsequent assessments for failure to comply with any subsequent request seeking information or data with respect to the same issue as set forth in a claim for refund filed within the time limits set forth above, until the year after a final decision of the court, and then only with respect to a failure to comply with a request for information with respect to assessments after a final decision of the court. For purposes of this paragraph, "same issue" means the type of information which is the subject of the disputed request for information.

(b) Any person who subscribes to the board's tax rate area change service and receives a change mailed between April 1 and May 1, shall file a corrected statement no later than May 30 with respect to those parts of the property statement which are affected by the change.

If such person receives a change mailed after May 1, a corrected statement shall be filed no later than the 60th day following the mailing of such change.

(c) Penalties incurred for filings received after June 30 may be included with the assessments for the succeeding fiscal year.

(d) If the assessee establishes to the satisfaction of the board that the failure to file the property statement or any of its parts within the time required by this section was due to reasonable cause and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the board shall order the penalty abated, provided the assessee has filed with the board written application for abatement of the penalty within the time prescribed by law for the filing of applications for assessment reductions.

SEC. 3. Section 833 of the Revenue and Taxation Code is amended to read:

833. (a) Except as provided herein, all information required by the board or furnished in the property statement shall be held secret by the board. Information and records in the board's office which are not required to be kept or prepared by the board are not public documents and are not open to public inspection.

(b) This section shall not apply to maps filed pursuant to Section 326.

(c) Except as provided in Section 38706, the board may provide any assessment data in its possession to the assessor of any county. When requested by resolution of the board of supervisors of any county, or the city council of any city which prepares its own local roll, the board shall permit the auditor or the assessor of the county or city, or any duly authorized deputy or employee of that officer, to

examine any and all records of the board.

(d) The board shall disclose information, furnish abstracts or permit access to any and all of its records to or by law enforcement agencies, grand juries, and other duly authorized legislative or administrative officials of the state pursuant to their authorization to examine these records.

(e) The board also may disclose information, records, and appraisal data relating to state assessment of companies engaged in interstate commerce to tax officials of other states having duties corresponding to those described by this chapter. This disclosure shall be limited to instances in which there is a reciprocal exchange of information by the states in which the interstate companies operate, and shall be made only pursuant to a written agreement between the agencies involved. This agreement shall provide that any request for information be in writing, shall specify the information to be exchanged, and shall require that any information furnished be used solely for tax administration purposes and otherwise shall be held secret. This agreement shall also provide that any information furnished be disclosed only to those persons whose duties or responsibilities require access and shall require that necessary safeguards be implemented to protect the confidentiality of the information and the destruction of the information upon completion of its use. The request for information and any written material furnished pursuant to the request shall be open to inspection by the person to whom the information relates at the office of the board in Sacramento.

(f) Upon receiving any request for confidential information from any person or entity described in subdivision (c) or (e), the board shall promptly notify the state assessee to which the request relates of the identity of the person or entity requesting the information and a description of the information sought. Upon sending any information in response to the request, the board shall simultaneously provide to the state assessee to which the request relates notification describing the information so transmitted and the identity of the person or entity to whom the information was transmitted.

SEC. 4. Section 5150.5 is added to the Revenue and Taxation Code, to read:

5150.5. In any action in which the recovery of a penalty assessed pursuant to paragraph (1), (2), or (3) of subdivision (a) of Section 830 is allowed by the court, the plaintiff shall be entitled to interest on the penalties for which recovery is allowed, at the applicable rate or rates in effect from time to time and payable on a refund of tax as provided in Section 5150. This interest shall be payable from the date of filing of the claim for refund, but in no event earlier than the date of payment of the penalty or installments thereof sought to be refunded, to the date of entry of judgment. This accrued interest shall be included in the judgment.

SEC. 5. Section 7273 of the Revenue and Taxation Code is

amended to read:

7273. In addition to the amounts otherwise provided for preparatory costs, the board shall charge, except as provided in Section 7273.1, the district for the board's services in administering the transactions and use tax ordinance of the district 0.82 percent of all district taxes that would be available for distribution to the district on and after July 1, 1972, had the district taxes been imposed at the rate of 1 percent rather than at a lower rate. Such amounts shall be deducted from the taxes collected by the board for the district.

SEC. 6. Section 7273.1 is added to the Revenue and Taxation Code, to read:

7273.1. Effective July 1, 1986, the board shall charge the Santa Clara Traffic Authority and the Santa Clara Transit District each one-half of the amount calculated in accordance with the formula specified in Section 7273.

CHAPTER 1092

An act to repeal and add Chapter 2 (commencing with Section 18600) of Division 8 of the Business and Professions Code, relating to boxing and wrestling.

[Approved by Governor September 27, 1985 Filed with Secretary of State September 27, 1985]

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

SECTION 1. Chapter 2 (commencing with Section 18600) of Division 8 of the Business and Professions Code is repealed.

SEC. 2. Chapter 2 (commencing with Section 18600) is added to Division 8 of the Business and Professions Code, to read:

CHAPTER 8. BOXING, WRESTLING AND MARTIAL ARTS

Article 1. Administration

18600. This chapter shall be known and may be cited as the Boxing Act.

Whenever a reference is made to the Boxing Act by the provisions of any statute, it is to be construed as referring to the provisions of this chapter.

18601. The Legislature may amend, revise, or supplement any part of this chapter.

18602. There is in the Department of Consumer Affairs the State Athletic Commission, which consists of eight members. Six members shall be appointed by the Governor; one member shall be appointed by the Senate Rules Committee, and one member shall be appointed by the Speaker of the Assembly.

The members of the commission appointed by the Governor are subject to confirmation by the Senate pursuant to Section 1322 of the Government Code.

18603. Members of the commission shall be appointed for a four-year term.

Vacancies occurring shall be filled by appointment in the same manner as specified in Section 18602 for the balance of the unexpired term.

18604. The appointing authority may remove any member of the commission for causes specified in Section 106.

18605. 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 or pass a motion.

18606. The members of the commission shall elect one of their number as the chair and another member as the vice-chair. The chair and vice-chair shall be elected at the first meeting of each calendar year or when a vacancy exists.

18607. Each member of the commission shall receive a per diem and necessary travel expenses as provided in Section 103.

18608. The commission is subject to all of the provisions of Division 1 (commencing with Section 100) and for the purposes of that division shall be deemed to be a board, except for the purposes of Section 102 the commission shall not be deemed to be a board created by an initiative act.

18610. The commission shall adopt a seal.

18611. The commission shall adopt, amend, or repeal, in accordance with the provisions of the Administrative Procedure Act, rules and regulations as may be necessary to enable it to carry out the provisions of the laws relating to boxing, wrestling, and the martial arts.

18612. The commission shall maintain a general office for the transaction of business in the County of Sacramento.

18613. The commission shall appoint an executive officer and fix his or her compensation. The executive officer shall carry out the duties prescribed by this chapter and such additional duties as may be delegated by the commission. The commission may employ in accordance with Section 154 such other personnel as may be necessary for the administration of this chapter.

18615. No inspector shall be assigned to regulate an event under the authority or jurisdiction of the commission, who, within the preceding six months, has not participated in an inspectors' clinic or received formal training, at which the laws and rules of the commission and related problems have been discussed. The commission is authorized to pay the necessary traveling expenses of an inspector while in attendance at the clinic or formal training.

18619. The commission shall biennially make to the Legislature on the first Monday of January in each odd-numbered year, a full report of its proceedings for the then current biennium and it may

submit, with the report recommendations pertaining to its affairs.

Article 2. General Provisions

18620. The definitions contained in this article shall be for terms used in this chapter and shall be applicable unless otherwise specifically provided.

18621. "Commission" means the State Athletic Commission.

18622. The words "club" and "promoter" are synonomous, may be used interchangeably and mean a corporation, partnership, association, individual, or other organization which conducts, holds or gives a boxing, wrestling, or martial arts contest, match or exhibition.

18623. A professional or amateur boxer, wrestler, or martial arts fighter is one who engages in a boxing, wrestling or martial arts contest and who possesses fundamental skills in his or her respective sport.

18625. "Contest" and "match" are synonymous, may be used interchangeably, and include boxing, kickboxing, martial arts exhibitions, wrestling matches, and mean a fight, prizefight, boxing contest, pugilistic contest, kickboxing contest, martial arts contest, sparring match, between two or more persons, where full or partial contact is used or intended which may result or intended, to result in physical harm to the opponent. In any exhibition or sparring match, the opponents are not required to use their best efforts.

18626. "Wrestling exhibition" means a performance of wrestling skills and techniques by two or more professional wrestlers, to which admission is charged or which is broadcast or televised, in which the participating wrestlers are not required to use their best efforts in order to win, and for which the winner may have been selected before the performance commences.

18627. (a) "Martial arts" means any form of karate, kung fu, tae kwon-do, kickboxing or any other forms of full contact martial arts, or self-defense conducted on a full contact basis where a weapon is not used.

(b) "Kickboxing" means any form of boxing in which blows are delivered with the hand and any part of the leg below the hip, including the foot.

(c) "Full contact" means the use of full unrestrainted physical force in a martial arts contest.

(d) "Light contact" means the use of controlled martial arts techniques whereby contact to the body is permitted in a restrained manner, no contact to the face is permitted, and no contact is permitted which may result or is intended to result in physical harm to the opponent.

(e) "Noncontact" means that no contact occurs between either contestant.

18628. "Manager" means any person who does any of the following:

(a) By contract, agreement, or other arrangement with any person, undertakes or has undertaken to represent in any way the interest of any professional boxer, or martial arts fighter in procuring, or with respect to the arrangement or conduct of, any professional contest in which the boxer or fighter is to participate as a contestant; except that the term "manager" shall not be construed to mean any attorney licensed to practice in this state whose participation in these activities is restricted to representing the legal interests of a professional boxer or fighter as a client. Otherwise, an attorney shall be licensed as a manager in order to engage in any of the activities described in this section.

(b) Directs or controls the professional boxing or martial arts activities of any professional boxer or martial arts fighter.

(c) Receives or is entitled to receive more than 10 percent of the gross purse of any professional boxer or martial arts fighter for any services relating to such person's participation in a professional contest.

(d) Is an officer, director, shareholder, or member of any corporation or organization which receives, or is entitled to receive more than 10 percent of the gross purse of any professional boxer or martial arts fighter for any services relating to the person's participation in a professional contest.

18629. "School, college, or university" means a secondary school, the University of California, a California State University, public community college, or any other private, postsecondary educational institution meeting the requirements of Sections 94303, 94310, subdivisions (a) or (b), or 94311 of the Education Code.

18630. "Proprietary interest" means any membership, coownership, stock ownership, legal or beneficial interest, profit-sharing arrangement, or other proprietary interest, designated arranged or held, directly or indirectly in any form.

18631. "License" as used in this chapter also includes a "permit".

Article 3. Jurisdiction, Licenses, and Exemptions

18640. The commission has the sole direction, management, control of, and jurisdiction over all professional and amateur boxing, professional and amateur wrestling, professional and amateur kickboxing, full contact martial arts contests, and matches or exhibitions which are conducted, held, or given within this state. No such event shall take place without the prior approval of the commission. No person shall engage in the promotion of, or participate in such a boxing, wrestling, or martial arts contest, match, or exhibition without a license, and except in accordance with this chapter and the rules adopted hereunder.

18641. The commission may license clubs to conduct, hold, or give, and shall license referees, judges, matchmakers, announcers, and timekeepers, and designated representatives of the promoter or facility responsible for ticket sellers and box office employees and

contracted ticket agencies, who are not employed by a city- or county-owned and operated facility, 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.

18642. The commission may license professional and amateur boxers, professional and amateur wrestlers, professional and amateur martial arts fighters, and booking agents, managers of professional boxers and professional martial arts fighters, trainers, chief seconds, and seconds of each. Only a natural person may be licensed as a boxer, wrestler, and martial arts fighter.

No person shall participate in any contest or serve in the capacity of a booking agent, manager, trainer, or second, unless he or she has been licensed for that purpose by the commission.

18643. (a) No professional boxer shall spar for training purposes with any person not licensed as a professional boxer or who does not have a sparring permit, nor shall any person licensed under this chapter conduct, hold, or permit any such sparring.

(b) The commission shall issue a permit to spar with professional boxers for training purposes. Such permit shall be issued only to persons who meet the physical and mental requirements for licensure as a professional boxer.

18646. (a) This chapter applies to all amateur boxing, wrestling, and full contact martial arts contests.

(b) The commission may, however, authorize a nonprofit boxing, wrestling, or martial arts club or organization, upon approval of its bylaws, to administer its rules and may, therefore, waive direct commission application of laws and rules, including licensure, subject to the commission's affirmative finding that the standards and enforcement of similar rules by that club or organization meet or exceed the safety and fairness standards of the commission. The commission shall review the performance of any such club or organization annually.

(c) Every contest subject to this section shall be preceded by a physical examination, specified by the commission, of every contestant. A physician shall be in attendance at the contest. There shall be a medical insurance program satisfactory to the commission provided by the amateur club or organization in effect covering all contestants. The commission shall review compliance with these requirements.

(d) Any club or organization which conducts, holds, or gives amateur contests pursuant to this section, which collects money for

the event, shall in addition to furnishing a written financial report of receipts and disbursements within 90 days of the event.

(e) The commission has the right to have present without charge or restriction such representatives as are necessary to obtain compliance with this section.

(f) The commission may require any additional notices and reports it deems necessary to enforce the provisions of this section.

18648. The commission shall prescribe standards as necessary, for the licensure of any persons required to be licensed by this chapter or by the commission's regulations.

18653. (a) No person shall conduct or operate a professional boxers' training gymnasium unless he or she has a license issued by the commission under this chapter.

(b) Any application to conduct or operate a professional boxers' gymnasium shall contain facts which show compliance with this chapter and shall provide any other information the commission may require.

(c) The application shall include the fee required in Section 18817.

(d) This section shall not apply to a training camp established by a professional boxer for his or her sole use.

(e) As used in this chaper:

(1) A "professional boxers' training gymnasium" means a gymnasium, the principal business of which is the providing of training facilities for professional boxers, and in which either or both of the following occur:

(A) A fee is charged to professional boxers for the use of the gymnasium facilities.

(B) A fee is charged to persons who view the training of professional boxers.

(2) "Principal business" means the use of the gymnasium for the providing of training facilities for professional boxers which either accounts for more than 50 percent of the annual gross income of the gymnasium, or accounts for more than 50 percent of its total use.

18655. This chapter does not apply to any contest conducted under the supervision or control of an entity of the United States Government.

18656. This chapter does not apply to any contest conducted by, or participated in exclusively by, any school, college, or university, or by any association or organization composed exclusively of schools, colleges, or universities when each contestant in such contest is a bona fide student regularly enrolled for not less than one-half time in a school, college, or university.

Article 4. Applications

18660. Any person desiring a license issued under this chapter shall submit an application to the commission on an application form provided by the commission. The application shall contain any and all information requested by the commission and be accompanied by

any fee required in Article 10.

18661. The executive officer or his or her designee shall review and investigate all applications filed with the commission. The executive officer or designee shall file a written recommendation over his or her signature with regard to the granting or denial of the license. The executive officer or his or her designee shall also, when directed by the commission, investigate appeals from the denial by the commission of any license. The findings from such investigation shall be reported to the commission.

18662. Any applicant for a license may be required to appear before the commission as it or the executive officer may deem necessary.

18665. (a) All applications for a promoter's license shall contain a true statement of all persons connected with or having a proprietary interest in the promoter.

(b) Any person connected with, or having a proprietary interest in, an applicant for a promoter's license shall provide the commission with such financial information, or access to such financial information, as the commission deems necessary in order to determine whether the applicant is financially responsible.

(c) Any application for a promoter's license shall be signed under penalty of perjury by the sole proprietor, a general partner, or an officer of the corporation or association, as the case may be.

18666. All promoters shall submit in writing for prior approval by the commission, any change at any time in the persons connected with or having a proprietary interest in the promoter, including any change in the shareholders of a corporate entity.

18667. The commission shall not issue any promoter's license to an applicant unless the commission is satisfied that the applicant is the real party in interest, and intends to conduct, hold, or give such contests itself. In no case shall the commission issue a license to a promoter unless, the promoter will receive at least 25 percent of the net receipts of any promotion.

18668. Licensed promoters may engage in promotions with other licensed promoters, so long as each promoter holds a valid, unexpired license, and receives the written approval of the commission prior to the promotion. The co-promoters shall file a bond or bonds sufficient to meet the requirements of Section 18680.

18673. (a) All applications for a manager's license shall contain a true statement of all persons connected with, or having a proprietary interest in, the management of the boxer or martial arts fighter.

(b) Any application for a manager's license shall be signed under penalty of perjury by the sole proprietor, a general partner, or an officer of the corporation or association, as the case may be.

18674. All managers shall submit in writing, for prior approval by the commission, any change at any time in the persons connected with or having a proprietary interest in the management of the boxer or martial arts fighter, including any change in the shareholders of

a corporate entity.

18679. The commission may issue temporary permits prior to licensure, as provided by regulations of the commission.

Article 5. Bonds

18680. Before any license is issued to any club to conduct, hold, or give a contest or match, other than an amateur contest or match, the applicant 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. For the purpose of this section, "faithful performance by the club" shall include the cancellation of a contest or match without good cause once the contest or match has been approved by the commission.

After the issuance of a license to a club, the commission may modify the amount of a bond to insure adequate coverage for payments specified in Section 18684.

18681. Before any license is issued to any club to conduct, hold, or give an amateur contest or match, the applicant shall file a bond with the commission in an amount not less than one thousand dollars ($1,000), conditioned for the faithful performance by the club of the provisions of this chapter. For the purpose of this section, "faithful performance by the club" shall include the cancellation of a contest or match without good cause once the contest or match has been approved by the commission.

18684. The bonds required under this article shall guarantee, in order of priority, the payment of all taxes and fines due and payable to the state, the payment of contributions for medical insurance and to the pension and disability fund, the payment of the purses to the competitors, the repayment to consumers of purchased tickets, the payment of fees to the referees, judges, timekeepers, and physicians, and in the event of the cancellation of a contest or match approved by the commission without good cause, an amount determined by the commission which does not exceed the commission's actual cost in connnection with the approval of the contest or match. The circumstances and allocation of bond payment shall be determined by the commission.

18685. For the purposes of this article, a ceritifcate of deposit payable to the commission, or a savings account assigned to the commission, shall be considered equivalent to a bond as provided in Section 995.710 of the Code of Civil Procedure, and shall be acceptable to the commission upon such terms and conditions as it may prescribe.

Article 7. Regulation of Contests

18700. All buildings or structures used or intended to be used to conduct, hold, give a contest or match, or wrestling exhibition shall be safe and shall conform to the laws, ordinances, and regulations

pertaining to the buildings in the jurisdiction where the building or structure is situated.

18701. There shall be posted in public view at every place that a contest is held a notice in English and Spanish which states that it is unlawful to throw any object in the direction of the ring.

18702. No person under the age of 18 years shall participate as a contestant in any contest, match, or wrestling exhibition, except that any person 16 years or over may be licensed as an amateur and may participate in an amateur contest or match.

18703. All admission tickets to any contest or wrestling exhibition shall have printed clearly upon the face thereof the purchase price of the ticket, and no ticket shall be sold for more than that price. The tickets shall have the number of the ticket printed clearly on both ends of the ticket.

18705. Every promoter shall have at its own expense in attendance at every contest, a licensed physician approved by the commission who has had not less than three years experience in the practice of medicine since licensure, who shall perform the physical examination of the contestants and observe the physical condition of the contestants during the contest or match.

The services of the physician shall be paid according to a schedule of fees adopted by the commission. The fees shall be paid by the club to the commission, and it shall remit the payment to the physician.

18706. No later than one hour before the contestants enter the ring, the physician provided for in Section 18705 shall certify in writing as to the contestant's physical condition to engage in such contest or match. A report of the medical examinations shall be filed with the commission not later than 24 hours after the termination of the contest or match. The physician's report of the examination shall include specific mention as to the condition of the contestant's heart, nerves and brain.

18707. A physician in attendance at any contest or match pursuant to Section 18705 shall have the authority to stop any contest or match that is conferred upon the referee. The physician's authority shall be limited to a medically related injury and the physical condition of a contestant.

18710. In its discretion, the commission may order a special medical examination to be undertaken by any licensee, the report of which shall be made to the commission. The cost of the examination shall be shared equally by the commission and the licensee.

18714. For the purpose of studying and recommending medical and safety standards for the conduct of boxing, wrestling, and martial arts, the commission may call meetings of those licensed physicians and surgeons as it deems necessary at such times and places it deems appropriate. The commission is authorized to pay the necessary traveling expenses of the committee members in attendance at these meetings.

18720. No boxing contest or match shall be more than 12 rounds or not more than three minutes each in length, except that

championship contests may, if the written approval of the commission if first obtained, be 15 rounds of not more than three minutes each in length. The commission may limit the number of rounds in a contest within the maximum.

There shall be one minute rest between consecutive rounds.

18721. The commission may by rule specify the frequency with which boxers may participate in a contest.

18723. All gloves used by contestants in professional and amateur boxing contests or matches shall be approved by the commission and constructed so that:

(a) The thumb is not detached from the glove in such a manner that injury could result.

(b) The soft padding between the outside coverings shall be evenly distributed over the back of the gloves, and cover the knuckles and back of the hands.

(c) All paddings shall be consistent with the best available material and technology in order to reduce the cumulative effects of repetitive impacts.

18724. All professional and amateur boxing contests or matches shall be performed on a ring floor and padding which meet at least the following specifications:

(a) The ring floor shall be constructed of 1¼ inch plywood.

(b) The ring floor padding shall be of 1¾ inch thickness consisting of closed cellular foam in combination with high density polyvinylchloride (PVC) bonded together in solid sections, or equivalent covering.

18725. In addition to the requirements of this act, the commission may establish glove weights, equipment standards, safety standards, and the length of rounds in order to protect the health and safety of contestants.

18728. The commission shall establish by rule the weight spreads and classes of contestants.

18730. A referee shall be in attendance and direct and control at every boxing contest. Referees shall enforce the rules of the commission at every boxing contest.

18731. No referee or physician shall be assigned to a boxing contest who has not participated in a clinic sponsored by the commission in accordance with this section in the preceding six months.

Clinics shall include, among other things, the subjects of the rules of the commission, the recognition and diagnosis of serious or life-threatening, boxing-related and neurological injuries and disorders, and refereeing a bout.

The commission is authorized to pay any necessary and authorized travel expenses of referees and physicians who attend such clinics.

18732. Before starting a contest, the referee shall ascertain from each contestant, the name of his or her chief second, and shall hold such chief second responsible for the conduct of assistants during the contest.

18733. The referee shall stop a contest when a contestant shows a marked superiority, or is apparently outclassed.

18734. (a) The commission shall designate the scoring officials for each contest.

(b) The referee shall render a decision at the end of a boxing contest.

(c) The commission may require that judges be used in conjunction with the referee at any boxing contest.

18735. Referees and other boxing officials appointed by the commission while performing duties required under this chapter by the commission shall be entitled to the same rights and immunities granted to public employees by the provisions of Article 3 (commencing with Section 820), Chapter 1, Part 2, Division 3.6, Title 1 of the Government Code. The provisions of this section shall not be construed to affect, create, or destroy any rights or obligations of any public or private employer of a referee or other boxing official.

18738. (a) A boxer who intentionally hits a contestant with a rabbit punch or with a punch on that part of the body over the kidneys shall be penalized by the loss of a point for each such punch.

(b) Determination that a boxer has violated this section shall be made at the end of the round in which the violation occurred and prior to the next round by the referee or, if judges are used in conjunction with the referee, by any two officials. Upon such a determination, each such official shall penalize the boxer pursuant to subdivision (a).

(c) Upon a determination that this section has been violated, the referee shall inform both boxers and their managers at the end of the round in which the violation occurred and prior to the next round, and inform the audience of the penalty thus assessed. In any such case, the rest period may be extended by the referee.

18740. The commission shall furnish each boxer with a performance card upon which shall be recorded, the number of fights in which the boxer has participated in this state. This information shall be endorsed on the card by the inspector after the boxer has completed the bout. This card shall be presented by the licensee before the bout, or the boxer shall not be permitted to participate in the contest.

18748. Recognizing the need for uniformity in championship contests, the commission may exempt championship contests from any provision of this chapter and authorize alternate provisions as long as the safety and welfare of the boxers and the public are not jeopardized.

Article 8. Amateur Boxing

18750. No person shall appear as a contestant in any amateur boxing contest who has received any compensation or reward, except for actual expenses or trophies, in any form, for displaying, exercising, or giving any example of his or her skill in knowledge of

boxing exercises, or for rendering services of any kind to any boxing organization, or to any person or persons as trainer, coach, instructor or otherwise, or who shall have been employed in any manner professionally by reason of his or her boxing skill or knowledge.

18751. Except as provided in Section 18752, only an award may be given to each contestant in any amateur boxing contest which does not exceed the sum of five hundred dollars ($500). No portion of an admission fee or fees charged or received for any boxing contest shall be paid or given, either directly or indirectly, to any contestant in an amateur boxing contest.

18752. Unless the written permission of the commission is first obtained, it is a misdemeanor for any promoter to pay or cause to be paid to any coach, trainer, or manager of any amateur boxer participating in a contest, any sum of money other than the actual traveling and per diem expenses incurred by such coach, trainer, or manager and amateur boxer in traveling to and from their respective residences to the boxing contest in an amount to be determined by the commission.

18755. No contestant in an amateur boxing contest shall use any bandage on his or her hand or arm except soft surgical bandages not over two inches wide and ten yards in length for each hand, and one winding of surgeon's adhesive tape not over 1½ inches wide placed directly on the hand to protect that part of the hand near the wrist. This may cross the back of the hand twice, but not extend within one inch of the knuckles.

18756. No amateur boxing contest shall be more than four rounds of not more than two minutes each, or three rounds of three minutes each, in length.

There shall be one minute rest between rounds.

18757. At every amateur boxing contest, any representative of the commission shall stop the contest whenever it appears that the contestants are unevenly matched, either of them has been seriously injured, or that there is danger that either of them will be seriously injured if the contest continues. The person may call to his or her assistance in enforcing an order to stop the contest, as many peace officers or able-bodied citizens of the state as may be necessary.

18758. No amateur boxing contest shall be held in conjunction with vaudeville shows, dances, or entertainments of any sort.

Article 9. Martial Arts

18760. Except as otherwise provided by this article, "boxing" as used in this chapter includes "kickboxing" and "martial arts." The provisions of Sections 18720, 18721, 18723, 18725, 18728, 18755, 18756, 18763, and Article 15 (commencing with Section 18870) shall not apply to kickboxing and martial arts.

18761. Rules and regulations of the commission relating to professional boxing shall apply to kickboxing and martial arts, except where specifically excluded by the commission's regulations.

18763. The commission shall by rule and regulation, regulate kickboxing and martial arts in accordance with Section 18640.

18765. The commission shall, by rule and regulation, prescribe the length and duration of professional and amateur kickboxing and martial arts contests, the weight classifications, the manner in which the contestants engage in such contests, and such further safeguards and conditions as shall insure fair, sportsmanlike, and scientific contests.

No contest shall be conducted unless each contestant uses protective gear approved by the commission.

18766. Every contestant in an amateur kickboxing or martial arts contest under the age of 18 years shall wear protective headgear approved by the commission.

18767. This chapter shall not apply to light and noncontact kickboxing and martial arts, and kickboxing and martial arts instruction and schools.

18768. The commission shall not function as a sanctioning body, nor shall it grant titles to fighters or to individual events. This function shall be retained by such professional and amateur full-contact kickboxing and martial arts associations operating on a local, statewide, regional, national or international level, which shall, when operating in California, observe such rules and regulations adopted by the commission.

18769. (a) The commission may appoint an advisory committee to advise the commission on the provisions of this article.

(b) The advisory committee shall be composed of individuals, residing in California, who have prior to their appointment, been promoters, fighters, trainers, managers, or officials in publicly held kickboxing or full-contact martial arts events.

(c) The advisory committee may elect its own officers.

Article 10. Wrestling Exhibitions

18770. Except as otherwise provided, this chapter applies to exhibitions as well as to contests and matches. The provisions of this article apply only to wrestling exhibitions.

18771. For the purposes of this article, "exhibition" means a wrestling exhibition.

18773. Any sign, poster, or other printed or media advertising for, and every ticket for admission to, any exhibition shall contain on the face thereof in type which is clearly legible and not less than half as large as the largest type used thereon, but no larger than 12-point type, a notice that the event will be an exhibition.

18774. Before the commencement of any exhibition, the referee or announcer shall give the notice verbally as is required by Section 18773 to the audience in attendance, and if it is being broadcast or telecast, to the radio or television audience.

18775. Neither the term "contest" or "match" shall be used in any advertising or on any tickets for any exhibition nor shall those terms

be used in any announcement regarding the exhibition.

18776. Every promoter shall, at his or her own expense, have a licensed physician in attendance at every wrestling exhibition.

18777. The promoters of a wrestling exhibition shall provide a referee to manage the exhibition and to maintain order and protect the safety of participants and the audience.

Article 12. Revenue and Fiscal Affairs

18800. (a) All moneys received by the commission under the provisions of this chapter shall be accounted for and reported by detailed statements furnished by the commission to the Controller at least once a month, and at the same time, such moneys shall be remitted to the Treasurer and shall be deposited in the General Fund.

(b) All moneys deposited in the General Fund pursuant to Section 18800 which have been received by the commission pursuant to Sections 18882 and 18888, are hereby continuously appropriated as follows:

(1) Moneys in the Boxers' Pension Account for purposes of the pension plan established under Section 18881.

(2) Moneys in the Disability Insurance Program Account for purposes of the disability insurance program established under Section 18887.

18801. The salaries and expenses of the members and employees, and the operating expenses of the commission shall be paid by the Treasurer on the warrant of the Controller from the funds appropriated therefor upon the certification of the executive officer.

18802. The commission is, with respect to accounting, auditing, budget, financial and personal matters, subject to all laws and requirements now or hereafter imposed by law upon, or applicable to state agencies.

18804. The application and renewal fee for a license to promote or conduct a professional contest or wrestling exhibition shall be two hundred dollars ($200).

18806. The application and renewal fee for a boxing, kickboxing, or martial arts matchmaker's license shall be one hundred dollars ($100).

18807. The application and renewal fee for a boxing, kickboxing, or martial arts assistant matchmaker's license shall be seventy-five dollars ($75).

18808. The application and renewal fee for a wrestling booking agent's license shall be one hundred dollars ($100).

18809. The application and renewal fee for a professional boxer, wrestler, kickboxer, or martial arts fighter license shall be twenty-five dollars ($25).

18810. The application and renewal fee for a boxing, kickboxing, and martial arts manager's license shall be sixty dollars ($60).

18811. The application and renewal fee for a boxing, kickboxing,

and martial arts trainer's license, chief second's and second's license shall be twenty-five dollars ($25).

18812. The application and renewal fee for a professional boxing, kickboxing, and martial arts referee's or judge's license shall be sixty dollars ($60).

18813. The application and renewal fee for an amateur boxing, kickboxing, and martial arts referee's and judge's license shall be twenty-five dollars ($25).

18814. The application and renewal fee for a timekeeper's, announcer's, ticket taker's, ticket seller's, and box office personnel license shall be twenty-five dollars ($25) unless the commission establishes a lower fee by regulation.

18817. The application and renewal fee for professional boxers' training gymnasium shall not exceed seventy-five dollars ($75).

18819. The fee for a simultaneous telecast permit under Section 18831 shall be fifty dollars ($50).

18822. A license may be renewed at any time prior to midnight on December 31 of the year in which it was issued. If not renewed, the license shall expire at that time.

18824. Except as provided in Section 18646 and Section 18721, every promoter licensed under this chapter shall, within 72 hours after the determination of every contest or wrestling exhibition for which an admission fee is charged and received, furnish to the commission a written report executed under penalty of perjury by one of the officers, showing the number of tickets issued or sold for such contest or wrestling exhibition, the amount of the gross receipts or value thereof, and the gross price charged directly or indirectly and no matter by whom received, for the sale, lease, or other exploitation of broadcasting and television rights of such contest or wrestling exhibition, and without any deductions, except for expenses incurred for one broadcast announcer, telephone line connection, and transmission mobile equipment facility, which may be deducted the gross taxable base when such expenses are approved by the commission. Such promoter shall also, within the same time, pay to the commission a 5 percent tax, exclusive of any federal taxes paid thereon, of the amount paid for admission to such contest or wrestling exhibition, and of the gross price as described above for the sale, lease, or other exploitation of broadcasting or television rights thereof, except that in no case shall such tax be less than fifty dollars ($50).

The tax on admission shall apply to the amount actually paid for admission and not to the regular established price.

No tax is due in the case of a person admitted free of charge.

18825. An inspector or other representative of the commission duly authorized by the executive officer shall be admitted to the box office, and is authorized to assist in the counting of tickets and in the computation of the tax due thereon, and to take any other action necessary for the administration and enforcement of this chapter. The inspector or other representative shall immediately mail to the

commission the official statement of gross receipts received by him or her from the promoter.

18826. Whenever any promoter fails to make a report of any contest or wrestling exhibition within the period prescribed by this chapter, or whenever such report is unsatisfactory to the commission, the executive officer, or his or her duly authorized representative may examine, or cause to be examined, the books and records of the promoter and any other persons or organizations, and subpoena and examine under oath, such persons for the purpose of determining the total amount of the gross receipts for any contest or wrestling exhibition and the amount of tax due pursuant to this chapter, which tax he or she may fix and determine as a result of such examination.

18827. If a promoter fails to pay any tax ascertained to be due under this chapter, in addition to the costs of the examination under Section 18822, if any, within 30 days after receipt of notice by the executive officer, the commission may without hearing revoke or suspend the promoter's license and authorize the Attorney General to bring an action in superior court to collect the amount due, any fines authorized by this chapter, and attorney's fees.

The action shall be speedily determined by the court and shall take precedence over all matters pending therein except criminal cases, applications for injunction or other matters to which special precedence has been given by law.

Article 13. Closed Circuit Telecast Revenue

18830. As used in this article:

(a) "Person" includes a promoter, club, individual, corporation, partnership, association or other organization.

(b) "Closed circuit telecast" includes any telecast or broadcast, transmitted by any means, including subscription where an extra or additional fee is charged where an identifiable or particular fee is charged for the viewing within this state of a simultaneous telecast of any live, current, or spontaneous match or wrestling exhibition.

18831. No person shall charge or receive an admission fee for exhibiting a simultaneous telecast of any live, current, or spontaneous contest or wrestling exhibition on a closed-circuit telecast viewed within this state without a permit issued by the commission.

Application for such a permit shall be on a form provided by the commission, shall include a bond as required in Article 5, and shall contain such information as the commission may require, including, but not limited to, the locations where such telecasts are to be viewed. A permit shall be issued for each location where such telecast is to be viewed. The applicant shall pay the permit fee required in Section 18819.

The bond shall guarantee payment of taxes and fines due and payable to the state.

The permit may be denied only for the following reasons:

(a) The information required by the commission is not supplied by the applicant.

(b) The applicant is or has been in default for the payment of any taxes or fees required by this chapter.

(c) The permit fee has not been paid by the applicant.

18832. Every person who charges and receives a fee for exhibiting a simultaneous telecast of any live, current, or spontaneous contest or wrestling exhibition on a closed-circuit telecast viewed within this state shall, within 72 hours after such event, furnish to the commission, a written report under penalty of perjury on a form which shall be provided by the commission showing the number of tickets or subscriptions where an extra or additional fee is charged for the viewing, which were issued or sold, and the gross receipts therefor without any deductions whatsoever. The person shall also, at the same time, pay to the commission a 5 percent tax, exclusive of federal taxes thereon, of the amount paid for admission or subscription telecast, as defined in Section 18830, to the showing or viewing of the contest or wrestling exhibition. In no event, however, shall the tax be less than fifty dollars ($50). The tax shall apply uniformly to all persons subject to the tax.

The tax on admission shall apply to the amount actually paid for admission and not the regular established price.

No tax is due in the case of a person admitted free of charge.

18833. The commission may designate a representative to be present at, and observe the computation of the number of tickets issued or sold, and the determination of the gross receipts. Where a telecast or broadcast is accomplished by subscription, records in support of the receipts shall be made available to the commission upon request.

18834. Whenever any person fails to make a report of a closed-circuit television showing of any contest or wrestling exhibition within the period prescribed by Section 18832, or whenever the report is unsatisfactory to the commission, the executive officer or his or her representative may examine or cause to be examined, the books and records of the permit holder or any other person, and subpoena and examine under oath those persons for the purposes of determining the total amount of the gross receipts of a closed-circuit television showing of any contest or wrestling exhibition and the amount of tax due pursuant to this chapter, which tax he or she may fix or determine as the result of the examination.

18835. If a permitholder fails to pay any tax ascertained to be due under this chapter, in addition to the costs of the examination under Section 18833, if any, within 30 days after receipt of notice by the executive officer, the commission may authorize the Attorney General to bring an action in superior court to collect the amount due, any fines authorized by this chapter and attorney's fees.

The action shall be speedily determined by the court and shall take precedence over all matters pending therein except criminal cases,

applications for injunction, or other matters to which special precedence has been given by law.

18836. In case of default in the payment of any tax due under this chapter, the commission may refuse to issue a permit to any person so defaulting regardless of whether the application for the permit is made solely in the name of the person, or together with others.

18837. This article does not apply to a cable television's system franchised under Section 53066 of the Government Code.

Article 14. Administrative Enforcement

18840. Notwithstanding any other provision of this code, if in the judgment of the commission the financial responsibility, experience, character and general fitness of an applicant for a license or renewal thereof, or any person connected with the applicant, are such that the participation of the applicant will be consistent with the public interest, convenience or necessity, and with the best interests of boxing, wrestling, and martial arts generally, and in conformity with the purposes of this chapter, and the rules or regulations adopted pursuant thereto, the commission may grant an unrestricted license or issue a license subject to terms and conditions.

18841. Notwithstanding any other provision of this code, licenses issued under this chapter may be revoked, suspended, or placed on probation under terms and conditions including, but not limited to, the making of restitution, for any violation or attempted violation of this chapter, any rule or regulation adopted pursuant thereto, or for any cause for which a license may be denied.

Such action shall be final, except that the propriety of such action is subject to review, upon questions of law only, by the superior court. The action of the commission shall stand unless and until reversed by the court.

18842. The commission, the executive officer and other employees duly authorized by the executive officer, shall have the power to suspend temporarily, any license until final determination by the commission when, in his or her opinion, the action is necessary to protect the public welfare or is in the best interest of boxing, wrestling, or martial arts.

The suspension may be without advance hearing, but the suspended licensee may apply to the commission for a hearing on the matter to determine if the suspension should be modified or set aside. The application for a hearing shall be in writing and shall be received by the commission within 30 days after the date of suspension. Upon receipt of such written request, the commission shall set the matter for hearing within 30 days.

18843. In addition to its authority under other provisions of this chapter to take action against a licensee, the commission, its executive officer, or his or her duly authorized representative shall have the authority to assess fines not to exceed two thousand five hundred dollars ($2,500) for each violation of any of the provisions

of this chapter or any of the rules and regulations of the commission.

This fine may be assessed without advance hearing, but the licensee may apply to the commission for a hearing on the matter if such fine should be modified or set aside. This application for a hearing shall be in writing and shall be received by the commission within 30 days after service of notice of the fine. Upon receipt of this written request, the commission shall set the matter for hearing within 30 days.

18844. If a licensee fails to pay any fine assessed under this chapter within 30 days after receipt of notice by the executive officer, after time for appeal has passed or after action on an appeal by the commission, the commission may, without hearing, revoke or suspend the license held by the licensee and authorize the Attorney General to bring an action in superior court to collect the amount due and attorney's fees.

The action shall be speedily determined by the court and shall take precedence over all matters pending therein except criminal cases, applications for injunction, or other matters to which special precedence has been given by law.

18845. (a) The commission, its executive officer, or any other employee duly authorized by the executive officer may issue subpoenas for the attendance of witnesses, giving of testimony, or the production of documents before the commission, any member thereof, the executive officer, or any other duly authorized employee with the same effect as if they were issued in an action in the superior court. They may also administer oaths in all matters appertaining to their duties or connected with the administration of the affairs of the commission.

(b) No witness shall be obliged to attend at a place out of the county in which the witness resides unless the distance is less than 150 miles from the witness's residence, except the commission or its designee may endorse on a subpoena an order requiring the attendance of such witness upon a showing that the testimony of such witness is material and necessary.

(c) Disobedience to a supoena may be punished as a contempt by the superior court.

18846. Notwithstanding any other provision of law, the commission, its executive officer, or his or her duly authorized representative may issue subpoenas for the attendance of witnesses or the production or examination of documents before the commission, any member thereof, its executive officer, or his or her duly authorized representative. The subpoenas shall have the same effect as if they were issued in an action in superior court. The persons may also administer oaths, in all matters appertaining to their duties, the enforcement of this chapter, or otherwise connected with the administration of the affairs of the commission.

18847. The disobedience of a subpoena issued under Section 18846 shall be attended by the same consequences and subject to the same penalties as if such disobedience occurred in an action in the

superior court.

18848. The license of any promoter or matchmaker found guilty of managing a boxer, wrestler, or martial arts fighter, either directly or indirectly, without written approval from the commission shall be subject to disciplinary action.

18849. No promoter, nor any person having a proprietary interest in the promoter, shall have, either directly or indirectly, any proprietary interest in a boxer, wrestler, or martial arts fighter competing on the premises owned, leased, or rented by the promoter without written approval from the commission.

18850. (a) Any boxer, wrestler, or martial arts fighter who participates in a contest or match while under suspension by the commission, or any other recognized commission, shall have his or her license revoked.

(b) Any licensee who, directly or indirectly, aids or abets such a boxer, wrestler, or martial arts fighter in violation of this section shall be subject to disciplinary action.

18852. A manager of a boxer, wrestler, or martial arts fighter shall maintain an accurate annual record showing all of the following with respect to each contest in which the boxer, wrestler, or martial arts fighter has participated.

(a) Training expenses.

(b) Amount of money actually paid to the contestant.

(c) Amount of money which the manager received from the purse.

(d) Amount of money owed to the manager by the contestant.

The manager's record shall be supported by documentation, shall be made available to both the fighter under contract and the commission upon request, and shall be kept in the manager's possession for a period of five years from the transaction.

18853. No fighter shall be paid before a contest, except that a promoter may, with the written approval of the commission, advance to the fighter before the contest, up to one thousand dollars ($1,000) plus any necessary transportation and living expenses. However, such advance, except necessary transportation and living expenses, shall not exceed 20 percent of the fighter's purse.

18854. No fighter, nor his or her manager, shall be paid for the services of the fighter except in the presence of an authorized commission representative. The commission representative shall report to the executive officer any payment made contrary to the provisions of the contract on file with the commission.

18855. Any official who fails to enforce the provisions of this act or the commission's rules and regulations shall be subject to disciplinary action.

18860. (a) The commission, the executive officer, or authorized representative shall have power to order a promoter to withhold any purse, any part thereof, any receipts or other funds owing or payable to any contestant, or the share thereof of any manager, if, in his or her judgment, it should appear that such contestant is not competing

honestly, or is intentionally not competing to the best of his or her ability, or if it should appear that the contestant, manager, or any seconds have violated any provision of this act, or the rules and regulations adopted by the commission.

(b) Any purse, or portion thereof, so withheld, shall be delivered by the promoter to the commission upon demand. Any contestant claiming the money withheld shall within 10 days after the end of the contest apply in writing to the commission for a hearing, the commisison shall fix a date for the hearing, and after the hearing determines the disposition to be made of the money held by the commission.

(c) If no application for a hearing is filed within the time prescribed the commission shall meet and determine the disposition to be made of the money held by the commission.

(d) This section does not apply to any exhibition where the participants are not competing to the best of their ability.

18861. The commission, the executive officer, or authorized representative shall have the power to order a promoter to withhold 10 percent of the total purse payable to a contestant if the manager of the contestant does not present an itemized statement of expenses incurred in connection with the contest. The money so withheld shall be paid to the commission and held in trust for payment to the contestant or his or her manager, upon presentation by the manager to the commission of the itemized statement of expenses.

18865. Any licensee who directly or indirectly holds, participates in, aids or abets any sham or fake contest or match shall be subject to disciplinary action.

This section does not apply to any exhibition.

18869. Nothing in this chapter shall prevent any county, city, or city and county from prohibiting the holding or participating in any contest, match, or exhibition.

Article 15. Crimes and Penalties

18870. Any person or promoter to whom this chapter is applicable who directly or indirectly holds, aids or abets any contest, match or exhibition without first having obtained a license or permit therefor under this act, is guilty of a misdemeanor.

18871. Any contestant who continues to participate in a professional or amateur contest or match after an order to stop the contest is given by an official, or authorized representative of the commission, is guilty of a misdemeanor.

18872. Any promoter who directly or indirectly destroys, or aids and abets in the destruction of, any ticket or ticket stub to a contest, match, or exhibition within six months after the event without written authorization from the commission is guilty of a misdemeanor.

18873. Any person who throws any object at the ring during a contest, match, or exhibition is guilty of a misdemeanor.

18878. Any person who otherwise violates any provision of this chapter is guilty of a misdemeanor.

Article 16. Boxer Benefits

18880. The Legislature finds and declares that professional boxers, as a group, for many reasons, do not retain their earnings, and are often injured or destitute, or both, and unable to take proper care of themselves, whether financially or otherwise, and that the enactment of this article is to serve a public purpose by making provisions for a needy group to insure a modicum of financial security for professional boxers. The provisions of this article pertain only to professional boxers.

18881. (a) The commission shall, consistent with the purposes of this article, establish a pension plan for professional boxers who engage in boxing contests in this state.

(b) The commission shall, consistent with the purposes of this article, establish a schedule of contributions to finance such a pension plan to be paid by professional boxers, managers, promoters on an equitable basis, as determined by the commission, in an amount sufficient to finance such pension plan. In establishing such schedule, the commission shall consider, but not be limited in its consideration to, the relative profits derived from a boxing contest by the professional boxer, his or her manager, and the promoter.

(c) Any pension plan established by the commission shall be actuarially sound.

18882. (a) At the time of payment of the admissions tax required by Section 18824, a promoter shall pay to the commission all amounts scheduled for contribution to the pension plan. At the time of payment of any purse to the boxer and his or her manager, the inspector or other duly authorized representative of the commission shall withhold their contributions to the pension plan.

(b) All contributions from professional boxers, managers, and promoters to finance the pension plan shall be deposited in and credited to the Boxers' Pension Account, which is hereby created in the General Fund. The money in the Boxers' Pension Account shall be used exclusively for the purposes and administration of the pension plan.

(c) Except as otherwise provided in this subdivision, the commission or its designee shall invest the money contained in the Boxers' Pension Account as other state funds are invested. The commission or its designee may also invest money from such account in group annuity contracts.

18883. Any professional boxer may, at his or her option, contribute to the pension plan established pursuant to Section 18881 at rates higher than those established by the commission pursuant to that section in order to receive greater benefits under such plan.

18884. (a) A promoter may, but is not required to, add to the price of each ticket sold for a professional boxing contest, an amount

specifically designated on the ticket for contribution as a donation, either or both, to the pension plan established pursuant to Section 18881. The additional amount shall not be subject to the admissions tax required by Section 18824 or any other deductions. Nothing in this section shall authorize the addition of such amounts to less than all the tickets sold for the professional boxing contest involved. The promoter shall pay additional contributions collected in accordance with Section 18881.

(b) Any additional contributions received pursuant to this section shall not be considered to offset any of the contributions required by the commission under Section 18881.

18887. (a) The commission shall establish a disability insurance program for each professional boxer, which insurance shall provide minimum financial benefits as determined by the commission for the disability of a professional boxer caused in a professional boxing contest held in this state. Such disability insurance program may be established in conjunction with the pension plan established by the commission as provided in this article.

(b) The commission shall, consistent with the purposes of this article, establish a schedule of contributions to finance such a disability insurance program to be paid by professional boxers, managers, and promoters on an equitable basis, as determined by the commission, in an amount sufficient to finance such pension plan. In establishing such a schedule, the commission shall consider, but not be limited in its consideration to, the relative profits derived from a boxing contest by the professional boxer, his or her manager, and the promoter.

(c) Any disability insurance program established by the commission shall be actuarially sound.

18888. (a) All contributions from professional boxers, managers, and promoters to finance the disability insurance program may be deposited in and credited to the Disability Insurance Account, which is hereby created in the General Fund. The money in the Disability Insurance Account shall be used exclusively for the purposes and administration of the disability insurance program.

(b) Contributions to the disability insurance program shall be collected and invested by the commission as provided in Section 18881.

SEC. 3. No reimbursement is required by this act pursuant to 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 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 1093

An act to add Section 2701.5 to the Unemployment Insurance Code, relating to unemployment compensation disability insurance.

[Approved by Governor September 27, 1985. Filed with Secretary of State September 27, 1985]

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

SECTION 1. Section 2701.5 is added to the Unemployment Insurance Code, to read:

2701.5. The department shall issue the initial payment for unemployment compensation disability benefits to a monetarily eligible claimant who is otherwise determined eligible by the department under applicable law and regulation within 14 days of receipt of his or her properly completed first disability claim.

SEC. 2. The Employment Development Department shall prepare and submit a report to the Legislature by June 30, 1986, which includes a time-lag study on initial claim payments issued pursuant to this act.

CHAPTER 1094

An act to repeal Section 10809.5 of, and to add Sections 10614.5 and 10824 to, the Welfare and Institutions Code, relating to public social services.

[Approved by Governor September 27, 1985 Filed with Secretary of State September 27, 1985.]

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

SECTION 1. Section 10614.5 is added to the Welfare and Institutions Code, to read:

10614.5. Upon the request of the Joint Legislative Budget Committee, the Department of Finance shall make immediately available data on monthly caseloads and expenditures for public social services programs supervised by the State Department of Social Services. In addition, this data shall be incorporated into and made an integral part of the budget data system.

SEC. 2. Section 10809.5 of the Welfare and Institutions Code is repealed.

SEC. 3. Section 10824 is added to the Welfare and Institutions Code, to read:

10824. The department shall pay any increased administrative costs incurred by a county where the costs of implementing any provision of this chapter exceed the program and administrative

savings realized by the county in the implementation of the provision.

CHAPTER 1095

An act relating to public social services.

[Approved by Governor September 27, 1985. Filed with Secretary of State September 27, 1985.]

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

SECTION 1. The State Department of Social Services and the State Department of Health Services, in consultation with the Board of Supervisors of Fresno County or the board's designee, shall create one form to be used for the reporting of income of recipients of the Aid to Families with Dependent Children program, provided for under Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code, the Medi-Cal program, provided for under Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code, and food stamps, as provided for under Chapter 10 (commencing with Section 18900) of Part 6 of Division 9 of the Welfare and Institutions Code. The form shall be used on a pilot project basis, for a period of two years, in Fresno County, at the option of that county, and in any other county which wishes to participate. The State Department of Social Services and the State Department of Health Services shall seek any federal waivers which may be necessary to operate the pilot program. The State Department of Health Services shall evaluate the effects of this act and shall submit a report on the effects to the Legislature on or before January 1, 1987.

CHAPTER 1096

An act to add Sections 1536.1, 1557.5, 1566.7, 1569.47, 1569.315, and 1569.335 to, the Health and Safety Code, relating to community care facilities.

[Approved by Governor September 27, 1985 Filed with Secretary of State September 27, 1985.]

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

SECTION 1. Section 1536.1 is added to the Health and Safety Code, to read:

1536.1. (a) "Placement agency" means any county probation department, county welfare department, county social service

department, county mental health department, county public guardian, general acute care hospital discharge planner or coordinator, and regional center for persons with developmental disabilities which is engaged in finding homes or other places for placement of persons of any age for temporary or permanent care.

(b) A placement agency shall place individuals only in licensed community care facilities or facilities which are exempt from licensing under Section 1505 or if the facility satisfies subdivision (c) of Section 362 of the Welfare and Institutions Code.

(c) No employee of a placement agency shall place, refer, or recommend placement of a person in a facility operating without a license, unless the facility is exempt from licensing under Section 1505 or unless the facility satisfies subdivision (c) of Section 362 of the Welfare and Institutions Code. Violation of this subdivision is a misdemeanor.

(d) Any employee of a placement agency who knows, or reasonably suspects, that a facility which is not exempt from licensing is operating without a license shall report the name and address of the facility to the department. Failure to report as required by this subdivision is a misdemeanor.

(e) The department shall investigate any report filed under subdivision (d). If the department has probable cause to believe that the facility which is the subject of the report is operating without a license, the department shall investigate the facility within 10 days after receipt of the report.

(f) A placement agency shall notify the appropriate licensing agency of any known or suspected incidents which would jeopardize the health or safety of residents in a community care facility. Reportable incidents include, but are not limited to, all of the following:

(1) Incidents of physical abuse.

(2) Any violation of personal rights.

(3) Any situation in which a facility is unclean, unsafe, unsanitary, or in poor condition.

(4) Any situation in which a facility has insufficient personnel or incompetent personnel on duty.

(5) Any situation in which residents experience mental or verbal abuse.

SEC. 2. Section 1557.5 is added to the Health and Safety Code, to read:

1557.5. Each facility required to be licensed shall keep a current record of all of the following:

(a) Clients in the facility, including each client's name and ambulatory status.

(b) The name, address, and telephone number of each client's physician.

(c) The name, address, and telephone number of any person or agency responsible for the care of a client.

The facility shall respect the privacy and confidentiality of this

information.

SEC. 3. Section 1566.7 is added to the Health and Safety Code, to read:

1566.7. The department shall notify affected placement agencies and the Office of the State Long-Term Care Ombudsman, as defined in subdivision (c) of Section 9701 of the Health and Safety Code, whenever the department substantiates that a violation has occurred which poses a serious threat to the health and safety of any resident when the violation results in the assessment of any penalty or causes an accusation to be filed for the revocation of a license. If the violation is appealed by the facility within 10 days, the department shall only notify placement agencies of the violation when the appeal has been exhausted. If the appeal process has not been completed within 60 days, the placement agency shall be notified with a notation which indicates that the case is still under appeal. The notice to each placement agency shall be updated monthly for the following 24-month period and shall include the name and location of the facility, the amount of the fine, the nature of the violation, the corrective action taken, the status of the revocation, and the resolution of the complaint.

SEC. 4. Section 1569.47 is added to the Health and Safety Code, to read:

1569.47. (a) "Placement agency" means any county welfare department, county social service department, county mental health department, county public guardian, general acute care hospital discharge planner or coordinator, and regional center for persons with developmental disabilities which is engaged in finding homes or other places for the placement of elderly persons for temporary or permanent care.

(b) A placement agency shall place individuals only in licensed residential care facilities for the elderly or facilities which are exempt from licensing under Section 1569.145.

(c) No employee of a placement agency shall place, refer, or recommend placement of a person in a facility operating without a license, unless the facility is exempt from licensing under Section 1569.145. Violation of this subdivision is a misdemeanor.

(d) Any employee of a placement agency who knows, or reasonably suspects, that a facility which is not exempt from licensing is operating without a license shall report the name and address of the facility to the department. Failure to report as required by this subdivision is a misdemeanor.

(e) The department shall investigate any report filed under subdivision (d). If the department has probable cause to believe that the facility which is the subject of the report is operating without a license, the department shall investigate the facility within 10 days after receipt of the report.

(f) A placement agency shall notify the appropriate licensing agency of any known or suspected incidents which would jeopardize the health or safety of residents in a residential care facility for the

elderly. Reportable incidents include, but are not limited to, all of the following:

(1) Incidents of physical abuse.

(2) Any violation of personal rights.

(3) Any situation in which a facility is unclean, unsafe, unsanitary, or in poor condition.

(4) Any situation in which a facility has insufficient personnel or incompetent personnel on duty.

(5) Any situation in which residents experience mental or verbal abuse.

SEC. 5. Section 1569.315 is added to the Health and Safety Code, to read:

1569.315. Each facility required to be licensed shall keep a current record of all of the following:

(a) Clients in the facility, including each client's name and ambulatory status.

(b) The name and telephone number of each client's physician.

(c) The name, address, and telephone number of any person or agency responsible for the care of a client.

The facility shall respect the privacy and confidentiality of this information.

SEC. 6. Section 1569.335 is added to the Health and Safety Code, to read:

1569.335. The department shall notify affected placement agencies and the Office of the State Long-Term Care Ombudsman, as defined in subdivision (c) of Section 9701 of the Health and Safety Code, whenever the department substantiates that a violation has occurred which poses a serious threat to the health and safety of any resident when the violation results in the assessment of any penalty or causes an accusation to be filed for the revocation of a license. If the violation is appealed by the facility within 10 days, the department shall only notify placement agencies of the violation when the appeal has been exhausted. If the appeal process has not been completed within 60 days, the placement agency shall be notified with a notation which indicates that the case is still under appeal. The notice to each placement agency shall be updated monthly for the following 24-month period and shall include the name and location of the facility, the amount of the fine, the nature of the violation, the corrective action taken, the status of the revocation, and the resolution of the complaint.

SEC. 7. Sections 4, 5, and 6 of this act shall only become operative if SB 185 of the 1985–86 Regular Session of the Legislature is enacted and becomes effective on January 1, 1986.

SEC. 8. No reimbursement shall be made from the State Mandates Claims Fund pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code for costs mandated by the state pursuant to this act. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Part 7

(commencing with Section 17500) and any other provisions of law.

CHAPTER 1097

An act to add Chapter 2.45 (commencing with Section 999q) to Title 6 of Part 2 of the Penal Code, relating to crimes.

[Approved by Governor September 27, 1985 Filed with Secretary of State September 27, 1985]

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

SECTION 1. Chapter 2.45 (commencing with Section 999q) is added to Title 6 of Part 2 of the Penal Code, to read:

CHAPTER 2.4. CHILD ABUSERS

999q. The Legislature hereby finds that child abusers present a clear and present danger to the mental health 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 a specially trained deputy district attorney or prosecution unit is assigned to a case from its filing to its completion, is a proven way of demonstrably increasing the likelihood of convicting child abusers and ensuring appropriate sentences for such offenders. In enacting this chapter, the Legislature intends to support increased efforts by district attorneys' offices to prosecute child abusers 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, the California Gang Violence Suppression Program, and the Repeat Sexual Offender Prosecution Program.

999r. (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 Child Abuser 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 and 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. The

guidelines shall be submitted to the appropriate policy committees of the Legislature prior to their adoption.

(b) The executive director is authorized to allocate and award funds to counties in which child abuser offender prosecution units are established or are proposed to be established in substantial compliance with the policies and criteria set forth below in Sections 999s, 999t, and 999u.

(c) The 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 Child Abuser Prosecution Program, be made available to support the prosecution of child abuser felony cases. Local grant awards made under this program shall not be subject to review as specified in Section 14780 of the Government Code.

999s. Child abuser prosecution units receiving funds under this chapter shall concentrate enhanced prosecution efforts and resources upon individuals identified under selection criteria set forth in Section 999t. Enhanced prosecution efforts and resources shall include, but not be limited to:

(a) Vertical prosecutorial representation, whereby the prosecutor who, or prosecution unit which, makes the initial filing or appearance in a case performs 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 child abuser cases. "Highly qualified" for the purposes of this chapter means: (1) individuals with one year of experience in the investigation and prosecution of felonies or specifically the felonies listed in subdivision (a) of Section 999l or 999t; 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 child abuser cases.

(d) Coordination with local rape victim counseling centers, child abuse services programs, and victim witness assistance programs. That 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 child abuse and child sexual abuse programs, local rape victim counseling centers and victim witness assistance programs.

999t. (a) An individual may be the subject of a child abuser prosecution effort who is under arrest for the sexual assault of a child as defined in subdivision (b) of Section 11165.

(b) In applying the child abuser selection criteria set forth above: (1) a district attorney may elect to limit child abuser prosecution efforts to persons arrested for any one or more of the offenses described 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 999v, the district attorney shall consider the character, the background, and the prior criminal background of the defendant.

999u. Each district attorney's office establishing a child abuser prosecution unit and receiving state support under this chapter shall adopt and pursue the following policies for child abuser cases:

(a) Except as provided in subdivision (b), all reasonable prosecutorial efforts will be made to resist the pretrial release of a charged defendant meeting child abuser selection criteria.

(b) Nothing in this chapter shall be construed to limit the application of diversion programs authorized by law. All reasonable efforts shall be made to utilize diversion alternatives in appropriate cases.

(c) All reasonable prosecutorial efforts will be made to reduce the time between arrest and disposition of charge against an individual meeting child abuser criteria.

999v. (a) The selection criteria set forth in Section 999t shall be adhered to for each child abuser 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 child abuser 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 child abuser cases referred to the district attorney's office for possible filing.

(2) The number of child abuser cases filed for felony prosecution.

(3) The number of sexual assault cases taken to trial.

(4) The number of child abuser cases tried which resulted in conviction.

999w. The characterization of a defendant as a "child abuser" as defined by this chapter shall not be communicated to the trier of fact.

999x. 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.

999y. The Office of Criminal Justice Planning shall report annually to the Legislature concerning the program established by this chapter.

CHAPTER 1098

An act to amend Sections 11019, 11054, 11055, 11058, 11372.5, and 11488 of, to amend and renumber the headings of Article 4 (commencing with Section 11240), Article 5 (commencing with Section 11250), and Article 6 (commencing with Section 11260) of, Chapter 5 of Division 10 of, to add Section 11212 to, and to repeal Article 3 (commencing with Section 11230) of, the Health and Safety Code, and to amend Section 1203.07 of the Penal Code, relating to controlled substances, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1985 Filed with Secretary of State September 27, 1985.]

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

SECTION 1. Section 11019 of the Health and Safety Code is amended to read:

11019. "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(a) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate.

(b) Any salt, compound, isomer, or derivative, whether natural or synthetic, of the substances referred to in subdivision (a), but not including the isoquinoline alkaloids of opium.

(c) Opium poppy and poppy straw.

(d) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, but not including decocainized coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine.

(e) Cocaine, whether natural or synthetic, or any salt, isomer, derivative, or preparation thereof.

(f) Ecgonine, whether natural or synthetic, or any salt, isomer, derivative, or preparation thereof.

(g) Acetylfentanyl, the thiophene analog thereof, derivatives of either, and any salt, compound, isomer, or preparation of acetylfentanyl or the thiophene analog thereof.

SEC. 1.2. Section 11054 of the Health and Safety Code is amended to read:

11054. (a) The controlled substances listed in this section are included in Schedule I.

(b) Opiates. Unless specifically excepted or unless listed in another schedule, any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers whenever the existence of those isomers, esters, ethers, and salts is possible within the specific chemical designation:

(1) Acethylmethadol.
(2) Allylprodine.
(3) Alphacetylmethadol.
(4) Alphameprodine.
(5) Alphamethadol.
(6) Benzethidine.
(7) Betacetylmethadol.
(8) Betameprodine.
(9) Betamethadol.
(10) Betaprodine.
(11) Clonitazene.
(12) Dextromoramide.
(13) Diampromide.
(14) Diethylthiambutene.
(15) Difenoxin.
(16) Dimenoxadol.
(17) Dimepheptanol.
(18) Dimethylthiambutene.
(19) Dioxaphetyl butyrate.
(20) Dipipanone.
(21) Ethylmethylthiambutene.
(22) Etonitazene.
(23) Etoxeridine.
(24) Furethidine.
(25) Hydroxypethidine.
(26) Ketobemidone.
(27) Levomoramide.
(28) Levophenacylmorphan.
(29) Morpheridine.
(30) Noracymethadol.
(31) Norlevorphanol.
(32) Normethadone.
(33) Norpipanone.
(34) Phenadoxone.
(35) Phenampromide.
(36) Phenomorphan.
(37) Phenoperidine.
(38) Piritramide.
(39) Proheptazine.
(40) Properidine.
(41) Propiram.
(42) Racemoramide.
(43) Tilidine.
(44) Trimeperidine.
(45) Any substance which contains any quantity of acetylfentanyl (N-[1-phenethyl-4-piperidinyl] acetanilide) or a derivative thereof.
(46) Any substance which contains any quantity of the thiopnene analog of acetylfentanyl (N-[1-[2-(2-thienyl)ethyl]-4-piperidinyl] acetanilide) or a derivative thereof.

(47) 1-Methyl-4-Phenyl-4-Propionoxypiperidine (MPPP)

(48) 1-(2-Phenethyl)-4-Phenyl-4-Acetyloxypiperidine (PEPAP).

(c) Opium derivatives. Unless specifically excepted or unless listed in another schedule, any of the following opium derivatives, its salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Acetorphine.
(2) Acetyldihydrocodeine.
(3) Benzylmorphine.
(4) Codeine methylbromide.
(5) Codeine-N-Oxide.
(6) Cyprenorphine.
(7) Desomorphine.
(8) Dihydromorphine.
(9) Drotebanol.
(10) Etorphine (except hydrochloride salt)
(11) Heroin.
(12) Hydromorphinol.
(13) Methyldesorphine.
(14) Methyldihydromorphine.
(15) Morphine methylbromide.
(16) Morphine methylsulfonate.
(17) Morphine-N-Oxide.
(18) Myrophine.
(19) Nicocodeine.
(20) Nicomorphine.
(21) Normorphine.
(22) Pholcodine.
(23) Thebacon.

(d) Hallucinogenic substances. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation, which contains any quantity of the following hallucinogenic substances, or which contains any of its salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation (for purposes of this subdivision only, the term "isomer" includes the optical, position, and geometric isomers):

(1) 4-bromo-2,5 dimethoxy-amphetamine — Some trade or other names: 4-bromo-2,5-dimethoxy-alpha-methylphenethylamine; 4-bromo-2,5-DMA.

(2) 2,5-dimethoxyamphetamine — Some trade or other names: 2,5-dimethoxy-alpha-methylphenethylamine; 2,5-DMA.

(3) 4-methoxyamphetamine — Some trade or other names: 4-methoxy-alpha-methylphenethylamine, paramethoxyamphetamine, PMA.

(4) 5-methoxy-3,4-methylenedioxy-amphetamine.

(5) 4-methyl-2,5-dimethoxy-amphetamine — Some trade or other names: 4-methyl-2,5 dimethoxy-alpha-methylphenethylamine;

"DOM"; and "STP".

(6) 3, 4-methylenedioxy amphetamine.

(7) 3,4,5-trimethoxy amphetamine.

(8) Bufotenine — Some trade or other names: 3-(beta-Dimethylaminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)-5 indolol; N,N-dimethylserolonin, 5-hydroxy-N,N-dimethyltryptamine; mappine.

(9) Diethyltrypatamine — Some trade or other names: N,N-Diethyltryptamine; DET.

(10) Dimethyltryptamine — Some trade or other names: DMT.

(11) Ibogaine — Some trade or other names: 7-Ethyl-6,6beta, 7,8,9,10,12,13-octahydro-2-methoxy-6,9-methano-5H-pyrido [1',2':1,2] azepino [5,4-b] indole; Tabernanthe iboga.

(12) Lysergic acid diethylamide.

(13) Marijuana.

(14) Mescaline.

(15) Peyote — Meaning all parts of the plant presently classified botanically as Lophophora williamsii Lemaire, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, derivative, mixture, or preparation of such plant, its seeds or extracts (interprets 21 U.S.C. Sec. 812(c), Schedule 1(c)(12)).

(16) N-ethyl-3-piperidyl benzilate.

(17) N-methyl-3-piperidyl benzilate.

(18) Psilocybin.

(19) Psilocyn.

(20) Tetrahydrocannabinols. Synthetic equivalents of the substances contained in the plant, or in the resinous extractives of Cannabis, sp. and/or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following: delta 1 cis or trans tetrahydrocannabinol, and their optical isomers; delta 6 cis or trans tetrahydrocannabinol, and their optical isomers; delta 3,4 cis or trans tetrahydrocannabinol, and its optical isomers.

(Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions covered).

(21) Ethylamine analog of phencyclidine — Some trade or other names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl) ethylamine, N-(1-phenylcyclohexyl) ethylamine, cyclohexamine, PCE.

(22) Pyrrolidine analog of phencyclidine — Some trade or other names: 1-(1-phenylcyclohexyl)-pyrrolidine, PCPy, PHP.

(23) Thiophene analog of phencyclidine — Some trade or other names: 1-[1-(2 thienyl)-cyclohexyl]-piperidine, 2-thienyl analog of phencyclidine, TPCP, TCP.

(e) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a

depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Mecloqualone.

(2) Methaqualone.

SEC. 1.4. Section 11055 of the Health and Safety Code is amended to read:

11055. (a) The controlled substances listed in this section are included in Schedule II.

(b) Any of the following substances, except those narcotic drugs listed in other schedules, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by combination of extraction and chemical synthesis:

(1) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate, with the exception of naloxone hydrochloride (N-allyl-14-hydroxy-nordihydromorphinone hydrochloride), but including the following:

(A) Raw opium.

(B) Opium extracts.

(C) Opium fluid extracts.

(D) Powdered opium.

(E) Granulated opium.

(F) Tincture of opium.

(G) Apomorphine.

(H) Codeine.

(I) Ethylmorphine.

(J) Hydrocodone.

(K) Hydromorphone.

(L) Metopon.

(M) Morphine.

(N) Oxycodone.

(O) Oxymorphone.

(P) Thebaine.

(2) Any salt, compound, isomer, or derivative, whether natural or synthetic, of the substances referred to in paragraph (1), but not including the isoquinoline alkaloids of opium.

(3) Opium poppy and poppy straw.

(4) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, but not including decocainized coca leaves or extractions which do not contain cocaine or ecgonine.

(5) Concentrate of poppy straw (the crude extract of poppy straw in either liquid, solid, or powder form which contains the phenanthrene alkaloids of the opium poppy).

(6) Cocaine, whether natural or synthetic, or any salt, isomer, derivative, or preparation thereof.

(7) Ecgonine, whether natural or synthetic, or any salt, isomer, derivative, or preparation thereof.

(c) Opiates. Unless specifically excepted or unless in another schedule, any of the following opiates, including its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers whenever the existence of those isomers, esters, ethers, and salts is possible within the specific chemical designation, dextrorphan and levopropoxyphene excepted:

(1) Alfentanyl.
(2) Alphaprodine.
(3) Anileridine.
(4) Bezitramide.
(5) Bulk dextropropoxyphene (nondosage forms).
(6) Dihydrocodeine.
(7) Diphenoxylate.
(8) Fentanyl.
(9) Isomethadone.
(10) Levomethorphan.
(11) Levorphanol.
(12) Metazocine.
(13) Methadone.
(14) Methadone-Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane.
(15) Moramide-Intermediate, 2-methyl-3-morpholino-1, 1-diphenylpropane-carboxylic acid.
(16) Pethidine (meperidine).
(17) Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine.
(18) Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate.
(19) Pethidine-Intermediate-C,-1-methyl 4-phenylpiperidine-4-carboxylic acid.
(20) Phenazocine.
(21) Piminodine.
(22) Racemethorphan.
(23) Racemorphan.
(24) Sufentanyl.

(d) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:

(1) Amphetamine, its salts, optical isomers, and salts of its optical isomers.
(2) Methamphetamine, its salts, isomers, and salts of its isomers.
(3) Phenmetrazine and its salts.
(4) Methylphenidate.

(e) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of those salts,

isomers, and salts of isomers is possible within the specific chemical designation:

(1) Amobarbital.

(2) Pentobarbital.

(3) Phencyclidines, including the following:

(A) 1-(1-phenylcyclohexyl) piperidine (PCP).

(B) 1-(1-phenylcyclohexyl) morpholine (PCM).

The Attorney General, or his or her designee, may, by rule or regulation, add additional analogs of phencyclidine to those enumerated in this paragraph after notice, posting, and hearing pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The Attorney General shall, in the calendar year of the regular session of the Legislature in which the rule or regulation is adopted, submit a draft of a proposed bill to each house of the Legislature which would incorporate the analogs into this code. No rule or regulation shall remain in effect beyond January 1 after the calendar year of the regular session in which the draft of the proposed bill is submitted to each house. However, if the draft of the proposed bill is submitted during a recess of the Legislature exceeding 45 calendar days, the rule or regulation shall be effective until January 1 after the next calendar year.

(4) Secobarbital.

(f) Immediate precursors. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances:

(1) Immediate precursor to amphetamine and methamphetamine:

(A) Phenylacetone. Some trade or other names: phenyl-2 propanone; P2P; benzyl methyl ketone; methyl benzyl ketone.

(2) Immediate precursors to phencyclidine (PCP):

(A) 1-phenylcyclohexylamine.

(B) 1-piperidinocyclohexane Carbonitrile (PCC).

SEC. 1.2. Section 11058 of the Health and Safety Code is amended to read:

11058. (a) The controlled substances listed in this section are included in Schedule V.

(b) Schedule V shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section.

(c) Narcotic drugs containing nonnarcotic active medicinal ingredients. Any compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below, which shall include one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation valuable medicinal qualities other than those possessed by narcotic drugs alone:

(1) Not more than 200 milligrams of codeine per 100 milliliters or

per 100 grams.

(2) Not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams.

(3) Not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams.

(4) Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit.

(5) Not more than 100 milligrams of opium per 100 milliliters or per 100 grams.

(6) Not more than 0.5 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.

(d) Loperamide.

(e) Buprenorphine.

SEC. 1.5. Section 11212 is added to the Health and Safety Code, to read:

11212. Persons who under applicable federal laws or regulations, are lawfully entitled to use controlled substances for the purpose of research, instruction, or analysis, may lawfully obtain and use for such purposes those substances classified in paragraphs (45) and (46) of subdivision (b) of Section 11054 of the Health and Safety Code, upon registration with and approval by the California Department of Justice for use of those substances in bona fide research, instruction, or analysis.

That research, instruction, or analysis shall be carried on only under the auspices of the individual identified by the registrant as responsible for the research. Complete records of receipts, stocks at hand, and use of these controlled substances shall be kept.

The Department of Justice may withdraw approval of the use of such substances at any time. The department may obtain and inspect at any time the records required to be maintained by this section.

SEC. 1.5. Article 3 (commencing with Section 11230) of Chapter 5 of Division 10 of the Health and Safety Code is repealed.

SEC. 2. The heading of Article 4 (commencing with Section 11240) of Chapter 5 of Division 10 of the Health and Safety Code is amended and renumbered to read:

Article 3. Veterinarians

SEC. 3. The heading of Article 5 (commencing with Section 11250) of Chapter 5 of Division 10 of the Health and Safety Code is amended and renumbered to read:

Article 4. Sale Without Prescription

SEC. 4. The heading of Article 6 (commencing with Section 11260) of Chapter 5 of Division 10 of the Health and Safety Code is amended and renumbered to read:

Article 5. Cannabis Therapeutic Research Program

SEC. 5. Section 11372.5 of the Health and Safety Code is amended to read:

11372.5. (a) Every person who is convicted of a violation of Section 11350, 11351, 11352, 11355, 11358, 11359, 11361, 11363, 11364, 11368, 11377, 11378, 11378.5, 11379, 11379.5, 11379.6, 11380, 11380.5, 11382, 11383, or 11550 or subdivision (a) or (c) of Section 11357, or subdivision (a) of Section 11360 shall pay a criminal laboratory analysis fee in the amount of fifty dollars ($50) for each separate offense. The court shall increase the total fine necessary to include this increment.

With respect to those offenses specified in this subdivision for which a fine is not authorized by other provisions of law, the court may, upon conviction, impose a fine in an amount not to exceed fifty dollars ($50), which shall constitute the increment prescribed by this section and which shall be in addition to any other penalty prescribed by law.

(b) The county treasurer shall maintain a criminalistics laboratories fund. The sum of fifty dollars ($50) shall be deposited into the fund for every conviction under Sections 11350, 11351, 11352, 11355, 11358, 11359, 11361, 11363, 11364, 11368, 11377, 11378, 11378.5, 11379, 11379.5, 11379.6, 11380, 11380.5, 11382, 11383, or 11550, subdivision (a) or (c) of Section 11357, or subdivision (a) of Section 11360, in addition to fines, forfeitures, and other moneys which are transmitted by the courts to the county treasurer pursuant to Section 11502. Such deposits shall be made prior to any transfer pursuant to Section 11502. The county may retain an amount of such money equal to its administrative cost incurred pursuant to this section. Moneys in the criminalistics laboratories fund shall, except as otherwise provided in this section, be used exclusively to fund (1) costs incurred by criminalistics laboratories providing microscopic and chemical analyses for controlled substances, in connection with criminal investigations conducted within both the incorporated or unincorporated portions of the county, (2) the purchase and maintenance of equipment for use by these laboratories in performing such analyses, and (3) for continuing education, training, and scientific development of forensic scientists regularly employed by these laboratories. Moneys in the criminalistics laboratory fund shall be in addition to any allocations pursuant to existing law. As used in this section, "criminalistics laboratory" means a laboratory operated by, or under contract with, a city, county, or other public agency, including a criminalistics laboratory of the Department of Justice, (1) which has not less than one regularly employed forensic scientist engaged in the analysis of solid-dose controlled substances, and (2) which is registered as an analytical laboratory with the Drug Enforcement Administration of the United States Department of Justice for the possession of all scheduled controlled substances. In counties served by criminalistics laboratories of the Department of

Justice, amounts deposited in the criminalistics laboratories fund, after deduction of appropriate and reasonable county overhead charges attributable to the collection thereof, shall be paid by the county treasurer once a month to the Controller for deposit into the State General Fund, and shall be excepted from the expenditure requirements otherwise prescribed by this subdivision.

The county treasurer shall, at the conclusion of each fiscal year, determine the amount of any funds remaining in the special fund established pursuant to this section after expenditures for that fiscal year have been made for the purposes herein specified. The county treasurer shall annually distribute such surplus funds in accordance with the allocation scheme for distribution of fines and forfeitures set forth in Section 11502.

SEC. 6. 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, 11379.6, 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. 7. Section 1203.07 of the Penal Code is amended to read:

1203.07. (a) Notwithstanding Section 1203, probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, any of the following persons:

(1) Any person who is convicted of violating Section 11351 of the Health and Safety Code by possessing for sale 14.25 grams or more of a substance containing heroin.

(2) Any person who is convicted of violating Section 11352 of the Health and Safety Code by selling or offering to sell 14.25 grams or more of a substance containing heroin.

(3) Any person convicted of violating Section 11351 of the Health

and Safety Code by possessing heroin for sale or convicted of violating Section 11352 of the Health and Safety Code by selling or offering to sell heroin, and who has one or more prior convictions for violating Section 11351 or Section 11352 of the Health and Safety Code.

(4) Any person who is convicted of violating Section 11378.5 of the Health and Safety Code by possessing for sale 14.25 grams or more of any salt or solution of any controlled substance specified in paragraph (21), (22), or (23) of subdivision (d) of Section 11054 or in paragraph (3) of subdivision (e) of Section 11055 of the Health and Safety Code.

(5) Any person who is convicted of violating Section 11379.5 of the Health and Safety Code by transporting for sale, importing for sale, or administering phencyclidine, or offering to transport for sale, import for sale, or administer phencyclidine, or by attempting to import for sale or transport for sale phencyclidine.

(6) Any person who is convicted of violating Section 11379.5 of the Health and Safety Code by selling, or offering to sell phencyclidine.

(7) Any person who is convicted of violating Section 11379.6 of the Health and Safety Code by manufacturing phencyclidine or offering to perform an act involving the manufacture of phencyclidine in violation of subdivision (b) of Section 11379.6.

As used in this section "manufacture" refers to the act of any person who manufactures, compounds, converts, produces, derives, processes, or prepares, either directly or indirectly by chemical extraction or independently by means of chemical synthesis.

(8) Any person who is convicted of violating Section 11380.5 of the Health and Safety Code by the use of a minor as an agent or who solicits, induces, encourages, or intimidates a minor with the intent that the minor shall violate the provisions of Section 11378.5, 11379.5, or 11379.6 of the Health and Safety Code insofar as the violation relates to phencyclidine or any of its analogs as specified in paragraph (21), (22), or (23) of subdivision (d) of Section 11054 or paragraph (3) of subdivision (e) of Section 11055 of the Health and Safety Code.

(9) Any person who is convicted of violating subdivision (b) of Section 11383 of the Health and Safety Code by possessing piperidine and cyclohexanone with intent to manufacture phencyclidine.

(b) The existence of any fact which would make a person ineligible for probation under subdivision (a) shall be alleged in the information or indictment, and either admitted by the defendant in open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by plea of guilty or nolo contendere or by trial by the court sitting without a jury.

SEC. 8. The Legislature finds and declares that this act is intended to cover the synthetic narcotics which are not presently covered by the Uniform Controlled Substances Act and which have caused serious injury and multiple deaths in California in the last several years. The Legislature further expressly finds and declares

that nothing in this act is intended to reduce or eliminate any penalties or prohibitions currently prescribed as to any controlled substances.

SEC. 9. No reimbursement is required by this act pursuant to 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 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. 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:

Because the availability of designer drugs constitutes a serious threat to the health and safety of the people of California, it is necessary that this act take effect immediately.

CHAPTER 1099

An act to amend Sections 186.2, 186.8, and 311.2 of the Penal Code, relating to crimes, and making an appropriation therefor.

[Approved by Governor September 27, 1985 Filed with Secretary of State September 27, 1985]

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

SECTION 1. Section 186.2 of the Penal Code is amended to read:

186.2. For purposes of the application of this chapter, the following definitions shall govern:

(a) "Criminal profiteering activity" means any act committed or attempted or any threat made for financial gain or advantage, which act or threat may be charged as a crime under any of the following sections:

(1) Arson, as defined in Section 451.

(2) Bribery, as defined in Sections 67, 68, and 69.

(3) Child pornography or exploitation, as defined in subdivision (b) of Section 311.2, or Section 311.3 or 311.4, which may be prosecuted as a felony.

(4) Felonious assault, as defined in Section 245.

(5) Embezzlement, as defined in Sections 424 and 503.

(6) Extortion, as defined in Section 518.

(7) Forgery, as defined in Section 470.

(8) Gambling, as defined in Sections 337a to 337f, inclusive, and Section 337i, except the activities of a person who participates solely as an individual bettor.

(9) Kidnapping, as defined in Section 207.

(10) Mayhem, as defined in Section 203.

(11) Murder, as defined in Section 187.
(12) Pimping and pandering, as defined in Section 266.
(13) Receiving stolen property, as defined in Section 496.
(14) Robbery, as defined in Section 211.
(15) Solicitation of crimes, as defined in Section 653f.
(16) Grand theft, as defined in Section 487.
(17) Trafficking in controlled substances, as defined in Sections 11351, 11352, and 11353 of the Health and Safety Code.
(18) Violation of the laws governing corporate securities, as defined in Section 25541 of the Corporations Code.
(19) Presentation of a false or fraudulent claim, as defined in Section 556 of the Insurance Code.
(20) Conspiracy to commit any of the crimes listed above, as defined in Section 182.

(b) "Pattern of criminal profiteering activity" means engaging in at least two incidents of criminal profiteering, as defined by this act, which meet the following requirements:
(1) Have the same or a similar purpose, result, principals, victims or methods of commission, or are otherwise interrelated by distinguishing characteristics.
(2) Are not isolated events.
(3) Were committed as a criminal activity of organized crime.

Acts which would constitute a "pattern of criminal profiteering activity" may not be used by a prosecuting agency to seek the remedies provided by this chapter unless the underlying offense occurred after the effective date of this chapter and the prior act occurred within 10 years, excluding any period of imprisonment, of the commission of the underlying offense. A prior act may not be used by a prosecuting agency to seek remedies provided by this chapter if a prosecution for that act resulted in an acquittal.

(c) "Prosecuting agency" means the Attorney General or the district attorney of any county.

(d) "Organized crime" means crime which is of a conspiratorial and (1) organized nature and which seeks to supply illegal goods and services such as narcotics, prostitution, loan sharking, gambling, and pornography, or, (2) through planning and coordination of individual efforts, to conduct the illegal activities of arson for profit, hijacking, insurance fraud, smuggling, operating vehicle theft rings, or systematically encumbering the assets of a business for the purpose of defrauding creditors.

(e) "Underlying offense" means an offense enumerated in subdivision (a) for which the defendant is being prosecuted.

SEC. 2. Section 186.2 of the Penal Code is amended to read:

186.2. For purposes of the application of this chapter, the following definitions shall govern:

(a) "Criminal profiteering activity" means any act committed or attempted or any threat made for financial gain or advantage, which act or threat may be charged as a crime under any of the following sections:

(1) Arson, as defined in Section 451.

(2) Bribery, as defined in Sections 67, 68, and 69.

(3) Child pornography or exploitation, as defined in subdivision (b) of Section 311.2, or Section 311.3 or 311.4, which may be prosecuted as a felony.

(4) Felonious assault, as defined in Section 245.

(5) Embezzlement, as defined in Sections 424 and 503.

(6) Extortion, as defined in Section 518.

(7) Forgery, as defined in Section 470.

(8) Gambling, as defined in Sections 337a to 337f, inclusive, and Section 337i, except the activities of a person who participates solely as an individual bettor.

(9) Kidnapping, as defined in Section 207.

(10) Mayhem, as defined in Section 203.

(11) Murder, as defined in Section 187.

(12) Pimping and pandering, as defined in Section 266.

(13) Receiving stolen property, as defined in Section 496.

(14) Robbery, as defined in Section 211.

(15) Solicitation of crimes, as defined in Section 653f.

(16) Grand theft, as defined in Section 487.

(17) Trafficking in controlled substances, as defined in Sections 11351, 11352, and 11353 of the Health and Safety Code.

(18) Violation of the laws governing corporate securities, as defined in Section 25541 of the Corporations Code.

(19) Any of the offenses contained in Chapter 7.5 (commencing with Section 311) of Title 9, relating to obscene matter, or in Chapter 7.6 (commencing with Section 313) of Title 9, relating to harmful matter which may be prosecuted as a felony.

(20) Presentation of a false or fraudulent claim, as defined in Section 556 of the Insurance Code.

(21) Conspiracy to commit any of the crimes listed above, as defined in Section 182.

(b) "Pattern of criminal profiteering activity" means engaging in at least two incidents of criminal profiteering, as defined by this act, which meet the following requirements:

(1) Have the same or a similar purpose, result, principals, victims or methods of commission, or are otherwise interrelated by distinguishing characteristics.

(2) Are not isolated events.

(3) Were committed as a criminal activity of organized crime.

Acts which would constitute a "pattern of criminal profiteering activity" may not be used by a prosecuting agency to seek the remedies provided by this chapter unless the underlying offense occurred after the effective date of this chapter and the prior act occurred within 10 years, excluding any period of imprisonment, of the commission of the underlying offense. A prior act may not be used by a prosecuting agency to seek remedies provided by this chapter if a prosecution for that act resulted in an acquittal.

(c) "Prosecuting agency" means the Attorney General or the

district attorney of any county.

(d) "Organized crime" means crime which is of a conspiratorial and (1) organized nature and which seeks to supply illegal goods and services such as narcotics, prostitution, loan sharking, gambling, and pornography or, (2) through planning and coordination of individual efforts, to conduct the illegal activities of arson for profit, hijacking, insurance fraud, smuggling, operating vehicle theft rings, or systematically encumbering the assets of a business for the purpose of defrauding creditors.

(e) "Underlying offense" means an offense enumerated in subdivision (a) for which the defendant is being prosecuted.

SEC. 3. Section 186.8 of the Penal Code is amended to read:

186.8. Notwithstanding that no response or claim has been filed pursuant to Section 186.5, in all cases where property is forfeited pursuant to this chapter 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 holder of a valid lien, mortgage or security interest, if any, up to the amount of his or her interest in the property or proceeds, when the court declaring the forfeiture orders a distribution to that person. The court shall endeavor to discover all such lienholders and protect their interests and may, at its discretion, order the proceeds placed in escrow for up to an additional 60 days to ensure that all valid claims are received and processed.

(b) 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.

(c) To the general fund of the state or local governmental entity, whichever prosecutes.

(d) In any case involving a violation of subdivision (b) of Section 311.2, or Section 311.3 or 311.4, in lieu of the distribution of the proceeds provided for by subdivisions (b) and (c), the proceeds shall be deposited in the county children's trust fund, established pursuant to Section 18966 of the Welfare and Institutions Code, of the county which filed the petition of forfeiture. If the county does not have a children's trust fund, the funds shall be deposited in the State Children's Trust Fund, established pursuant to Section 18969 of the Welfare and Institutions Code.

SEC. 4. Section 311.2 of the Penal Code is amended to read:

311.2. (a) Every person who knowingly sends or causes to be sent, or brings or causes to be brought, into this state for sale or distribution, or in this state possesses, prepares, publishes, or prints, with intent to distribute or to exhibit to others, or who offers to distribute, distributes, or exhibits to others, any obscene matter is guilty of a misdemeanor.

(b) Every person who knowingly sends or causes to be sent, or brings or causes to be brought, into this state for sale or distribution, or in this state possesses, prepares, publishes, develops, duplicates, or prints, with intent to distribute or to exhibit to, or to exchange with, others for commercial consideration, or who offers to distribute, distributes, or exhibits to, or exchanges with, others for commercial consideration, any obscene matter, knowing that the matter depicts a person under the age of 18 years personally engaging in or personally simulating sexual conduct, as defined in Section 311.4, is guilty of a felony and shall be punished by imprisonment in state prison for two, three, or six years, or by a fine not exceeding one hundred thousand dollars ($100,000), in the absence of a finding that the defendant would be incapable of paying such a fine, or by both such fine and imprisonment.

(c) Every person who knowingly sends or causes to be sent, or brings or causes to be brought, into this state for sale or distribution, or in this state possesses, prepares, publishes, develops, duplicates, or prints, with intent to distribute or to exhibit to, or to exchange with, a person 18 years of age or older, or who offers to distribute, distributes, or exhibits to, or exchanges with, a person 18 years of age or older any matter, knowing that the matter depicts a person under the age of 17 years personally engaging in or personally simulating sexual conduct, as defined in Section 311.4, is guilty of a misdemeanor and shall be punished by imprisonment in the county jail for up to one year, or by a fine not exceeding two thousand dollars ($2,000), or by both such fine and imprisonment. It is not necessary to prove commercial consideration or that the matter is obscene in order to establish a violation of this subdivision. If a person has been previously convicted of a violation of this subdivision, he or she is guilty of a felony.

(d) Every person who knowingly sends or causes to be sent, or brings or causes to be brought, into this state for sale or distribution, or in this state possesses, prepares, publishes, develops, duplicates, or prints, with intent to distribute or to exhibit to, or to exchange with, a person under 18 years of age, or who offers to distribute, distributes, or exhibits to, or exchanges with, a person under 18 years of age any matter, knowing that the matter depicts a person under the age of 17 years personally engaging in or personally simulating sexual conduct, as defined in Section 311.4, is guilty of a felony. It is not necessary to prove commercial consideration or that the matter is obscene in order to establish a violation of this subdivision.

(e) Subdivisions (a) to (d), inclusive, shall not apply to the activities of law enforcement and prosecuting agencies in the investigation and prosecution of criminal offenses or to legitimate medical, scientific, or educational activities, or to lawful conduct between spouses.

(f) This section shall not apply to matter which depicts a child under the age of 18, which child is legally emancipated, including lawful conduct between spouses when one or both are under the age

of 18.

SEC. 5. Section 311.2 of the Penal Code is amended to read:

311.2. (a) Every person who knowingly sends or causes to be sent, or brings or causes to be brought, into this state for sale or distribution, or in this state possesses, prepares, publishes, or prints, with intent to distribute or to exhibit to others, or who offers to distribute, distributes, or exhibits to others, any obscene matter is for a first offense, guilty of a misdemeanor. If the person has previously been convicted of any violation of this section, the court may, in addition to the punishment authorized in Section 311.9, impose a fine not exceeding fifty thousand dollars ($50,000).

(b) Every person who knowingly sends or causes to be sent, or brings or causes to be brought, into this state for sale or distribution, or in this state possesses, prepares, publishes, develops, duplicates, or prints, with intent to distribute or to exhibit to, or to exchange with, others for commercial consideration, or who offers to distribute, distributes, or exhibits to, or exchanges with, others for commercial consideration, any obscene matter, knowing that the matter depicts a person under the age of 18 years personally engaging in or personally simulating sexual conduct, as defined in Section 311.4, is guilty of a felony and shall be punished by imprisonment in state prison for two, three, or six years, or by a fine not exceeding one hundred thousand dollars ($100,000), in the absence of a finding that the defendant would be incapable of paying such a fine, or by both such fine and imprisonment.

(c) Every person who knowingly sends or causes to be sent, or brings or causes to be brought, into this state for sale or distribution, or in this state possesses, prepares, publishes, develops, duplicates, or prints, with intent to distribute or to exhibit to, or to exchange with, a person 18 years of age or older, or who offers to distribute, distributes, or exhibits to, or exchanges with, a person 18 years of age or older any matter, knowing that the matter depicts a person under the age of 17 years personally engaging in or personally simulating sexual conduct, as defined in Section 311.4, is guilty of a misdemeanor and shall be punished by imprisonment in the county jail for up to one year, or by a fine not exceeding two thousand dollars ($2,000), or by both such fine and imprisonment. It is not necessary to prove commercial consideration or that the matter is obscene in order to establish a violation of this subdivision. If a person has been previously convicted of a violation of this subdivision, he or she is guilty of a felony.

(d) Every person who knowingly sends or causes to be sent, or brings or causes to be brought, into this state for sale or distribution, or in this state possesses, prepares, publishes, develops, duplicates, or prints, with intent to distribute or to exhibit to, or to exchange with, a person under 18 years of age, or who offers to distribute, distributes, or exhibits to, or exchanges with, a person under 18 years of age any matter, knowing that the matter depicts a person under the age of 17 years personally engaging in or personally simulating sexual

conduct, as defined in Section 311.4, is guilty of a felony. It is not necessary to prove commercial consideration or that the matter is obscene in order to establish a violation of this subdivision.

(e) Subdivisions (a) to (d), inclusive, shall not apply to the activities of law enforcement and prosecuting agencies in the investigation and prosecution of criminal offenses or to legitimate medical, scientific, or educational activities, or to lawful conduct between spouses.

(f) This section shall not apply to matter which depicts a child under the age of 18, which child is legally emancipated, including lawful conduct between spouses when one or both are under the age of 18.

SEC. 6. (a) Section 2 of this bill incorporates amendments to Section 186.2 of the Penal Code proposed by both this bill and AB 595. It shall only become operative if (1) both bills are enacted and become effective January 1, 1986, (2) each bill amends Section 186.2 of the Penal Code, and (3) this bill is enacted after AB 595, in which case Section 1 of this bill shall not become operative.

(b) Section 5 of this bill incorporates amendments to Section 311.2 of the Penal Code proposed by both this bill and SB 498. It shall only become operative if (1) both bills are enacted and become effective January 1, 1986, (2) each bill amends Section 311.2 of the Penal Code, (3) this bill is enacted after SB 498 in which case Section 4 of this bill shall not become operative.

CHAPTER 1100

An act to amend Section 49536 of the Education Code, relating to child nutrition, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1985 Filed with Secretary of State September 28, 1985]

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

SECTION 1. The Legislature finds that child nutrition programs play a vital role in the health and education of children. The Legislature also finds that the federal government's reduction of funding for child nutrition programs has resulted in reduced participation by needy children who cannot afford the increased price of subsidized meals.

It is the intent of the Legislature to reduce the price of subsidized meals and to increase the quality of child nutrition programs.

It is the intent of the Legislature that moneys provided by this act shall supplement and not supplant current expenditures by local agencies for child nutrition programs.

SEC. 2. Section 49536 of the Education Code is amended to read:

49536. Commencing with the 1985–86 fiscal year, funds allocated pursuant to subdivision (a) of Section 41350 to child nutrition entities for school and child care and development program meals pursuant to this article shall be disbursed on the basis of eleven and thirty-five hundredths of a cent ($0.1135) for each breakfast and eleven and thirty-five hundredths of a cent ($0.1135) for each lunch served.

The State Department of Education shall thereafter, prior to July 1 of each subsequent year, prescribe an adjustment in the state meal contribution rates established pursuant to this section for the forthcoming fiscal year. The adjustments shall reflect the changes in the cost of operating a school breakfast and lunch program and shall be made commencing on July 1 of each year. The adjustment shall be the average of the separate indices of the "Food Away From Home Index" for Los Angeles and San Francisco as prepared by the United States Bureau of Labor Statistics.

In giving effect to the cost-of-living provisions of this section, the Department of Education shall use the same month for computation of the percentage change in the cost of living after July 1, 1975. The same month shall be used annually thereafter. The product of any percentage increase or decrease in the average index and the per meal reimbursement disbursement rate shall be adjusted by the amount of any cost-of-living change currently in effect pursuant to the provisions of this section.

SEC. 3. It is the intent of the Legislature that the disbursements made pursuant to Section 49536 of the Education Code shall be funded by the annual Budget Act.

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

In order to increase the quality of child nutrition programs at the earliest possible time, it is necessary for this act to take effect immediately.

CHAPTER 1101

An act to amend Section 42311 of the Health and Safety Code, relating to air pollution.

[Approved by Governor September 27, 1985. Filed with Secretary of State September 28, 1985]

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

SECTION 1. Section 42311 of the Health and Safety Code is amended to read:

42311. (a) A district board may adopt, by regulation, a schedule of annual fees for the evaluation, issuance, and renewal of permits to

cover the cost of district programs related to permitted stationary sources authorized or required under this division that are not otherwise funded. The fees assessed under this section shall not exceed, for any fiscal year, the actual cost of district programs for the immediately preceding fiscal year with an adjustment not greater than the change in the annual California Consumer Price Index as determined pursuant to Section 2212 of the Revenue and Taxation Code for the preceding year. Any revenues received by the district pursuant to the fees, which exceed the cost of the programs, shall be carried over for expenditure in the subsequent fiscal year, and the schedule of fees shall be changed to reflect that carryover. Every person applying for a permit, notwithstanding Section 6103 of the Government Code, shall pay the fees required by the schedule. Nothing in this subdivision precludes the district from recovering, through its schedule of annual fees, the estimated reasonable costs of district programs related to permitted stationary sources.

(b) The district board may require an applicant to deposit a fee in accord with the schedule adopted pursuant to subdivision (a) prior to evaluating a permit application, if the district accounts for the costs of its services and refunds to the applicant any significant portion of the deposit which exceeds the actual, reasonable cost of evaluating the application.

(c) In addition to the fees authorized by subdivisions (a) and (b), the district board may adopt, by regulation, a fee schedule for district programs related to permitted stationary sources for fiscal years ending before July 1, 1986, which allows the district to offset the loss of any state and federal subvention funds. The total amount raised by this fee schedule shall not exceed the amount of funds lost from state and federal subventions.

(d) Except as provided in Section 42313, all the fees shall be paid to the district treasurer to the credit of the district.

(e) This section does not apply to the south coast district board which is governed by Section 40510.

(f) In addition to providing notice as otherwise required, before adopting a regulation establishing fees pursuant to this section, the district board 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 district board. 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 district board 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 district board 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. Any costs incurred by the district board in conducting the required meeting may be recovered from fees charged for the programs which were the subject of the meeting.

(g) The Legislature finds and declares that because districts vary greatly in their dependence on state and federal subvention programs, county and district property tax support, and permit fees, it is necessary to provide a transition period to develop an equitable funding mechanism for local districts. Subdivision (c) accordingly authorizes districts to adopt certain fee schedules only for fiscal years ending before July 1, 1986, unless a later enacted statute deletes or extends this date.

SEC. 2. Section 42311 of the Health and Safety Code is amended to read:

42311. (a) A district board may adopt, by regulation, a schedule of annual fees for the evaluation, issuance, and renewal of permits to cover the cost of district programs related to permitted stationary sources authorized or required under this division that are not otherwise funded. The fees assessed under this section shall not exceed, for any fiscal year, the actual cost of district programs for the immediately preceding fiscal year with an adjustment not greater than the change in the annual California Consumer Price Index as determined pursuant to Section 2212 of the Revenue and Taxation Code for the preceding year. Any revenues received by the district pursuant to the fees, which exceed the cost of the programs, shall be carried over for expenditure in the subsequent fiscal year, and the schedule of fees shall be changed to reflect that carryover. Every person applying for a permit, notwithstanding Section 6103 of the Government Code, shall pay the fees required by the schedule. Nothing in this subdivision precludes the district from recovering, through its schedule of annual fees, the estimated reasonable costs of district programs related to permitted stationary sources.

(b) The district board may require an applicant to deposit a fee in accord with the schedule adopted pursuant to subdivision (a) prior to evaluating a permit application, if the district accounts for the costs of its services and refunds to the applicant any significant portion of the deposit which exceeds the actual, reasonable cost of evaluating the application.

(c) In addition to the fees authorized by subdivisions (a) and (b), the district board may adopt, by regulation, a fee schedule for district programs related to permitted stationary sources for fiscal years ending before July 1, 1986, which allows the district to offset the loss of any state and federal subvention funds. The total amount raised by this fee schedule shall not exceed the amount of funds lost from state and federal subventions.

(d) Except as provided in Section 42313, all the fees shall be paid to the district treasurer to the credit of the district.

(e) This section does not apply to the south coast district board which is governed by Section 40510.

(f) In addition to providing notice as otherwise required, before adopting a regulation establishing fees pursuant to this section, the district board 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 district board. 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 district board 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 district board 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. Any costs incurred by the district board in conducting the required meeting may be recovered from fees charged for the programs which were the subject of the meeting.

(g) The Legislature finds and declares that because districts vary greatly in their dependence on state and federal subvention programs, county and district property tax support, and permit fees, it is necessary to provide a transition period to develop an equitable funding mechanism for local districts. Subdivision (c) accordingly authorizes districts to adopt certain fee schedules only for fiscal years ending before July 1, 1986, unless a later enacted statute deletes or extends this date.

(h) In addition to any other fees authorized by this section, a district board may adopt, by regulation, a schedule of annual fees to be assessed against permitted nonvehicular sources emitting toxic air contaminants identified pursuant to the procedure set forth in Sections 39660, 39661, and 39662. A district board shall demonstrate that the fees assessed under this subdivision do not exceed the reasonable, anticipated costs of funding district activities mandated by Section 39666 related to nonvehicular source emissions. In making the demonstration, the district shall account for all direct and indirect costs of district activities related to each toxic air contaminant. If the district does not make this demonstration, it shall make reimbursement for that portion of the fee not determined to be reasonable.

SEC. 3. Section 2 of this bill incorporates amendments to Section 42311 of the Health and Safety Code proposed by both this bill and AB 681. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1986, (2) each bill amends

Section 42311 of the Health and Safety Code, and (3) this bill is enacted after AB 681, in which case Section 1 of this bill shall not become operative.

CHAPTER 1102

An act to add Chapter 15 (commencing with Section 76201) to Division 22 of the Food and Agricultural Code, relating to agricultural marketing, and making an appropriation therefor.

[Approved by Governor September 27, 1985. Filed with Secretary of State September 28, 1985]

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

SECTION 1. Chapter 15 (commencing with Section 76201) is added to Division 22 of the Food and Agricultural Code, to read:

CHAPTER 15. CALIFORNIA SHEEP COMMISSION

Article 1. Declaration and General Provisions

76201. The production, slaughtering, manufacturing and distributing of sheep and wool, and the products derived therefrom constitute an important industry of this state which not only provides substantial and necessary revenues for the state and employment for its citizens, but also furnishes essential food and fiber vital to the public health and welfare.

76202. The maintenance and expansion of the sheep industry of California and of its local, national, and foreign markets, is necessary to assure the consuming public of a continuous supply of the vital food and fiber, and the maintenance of needed levels of income for those engaged in the sheep industry of this state.

76203. It is necessary for human nutrition and public benefit that the public be made aware of accurate and scientific information relative to the beneficial qualities of sheep, wool, and the products derived therefrom, and the values and uses thereof, and of the production and distribution costs necessary to make sheep, wool, and the products derived therefrom, available to the consuming public.

76204. The production and marketing of sheep, wool, and the products derived therefrom, produced in this state is hereby declared to be affected with a public interest. This chapter is enacted in the exercise of the police power of this state for the purpose of protecting the health, peace, safety, and general welfare of the people of this state.

76205. No action taken by the commission, nor by any individual in accordance with this chapter or with the rules and 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 Fair Trade Act (Chapter 3 (commencing with Section 16900) of that Part 2), the Unfair Practices Act (Chapter 4 (commencing with Section 17000) of that Part 2), or any statutory or common law against monopolies or combinations in restraint of trade.

76205.5. This chapter shall be liberally construed. If any provision of this chapter or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of the chapter, which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

76206. It is hereby declared, as a matter of legislative determination, that members of the commission are intended to represent and further the interest of a particular agricultural industry concerned, and that this representation and furtherance is intended to serve the public interest. Accordingly, the Legislature finds that, with respect to persons who are appointed to the commission, the particular agricultural industry concerned is tantamount to, and constitutes, the public generally within the meaning of Section 87103 of the Government Code.

76207. A commission form of administration created by this chapter is designed to deal with the broad fields of advertising, promotion, marketing research, production research, and protection of sheep.

Article 2. Definitions

76221. Unless the context otherwise requires, the definitions in this article govern the construction of this chapter.

76222. "Sheep" means, but is not limited to rams, ewes, wethers, and lambs.

76223. "Books and records" means books, records, contracts, documents, memoranda, papers, correspondence, or other written data pertaining to matters relating to the activities subject to this chapter.

76224. "Commission" means the California Sheep Commission.

76225. "Commissioner" means any member of the commission.

76226. "Districts" shall consist of the following:

(a) District 1 consists of the Counties of Del Norte, Humboldt, Mendocino, and Lake.

(b) District 2 consists of the Counties of Sonoma, Napa, and Marin.

(c) District 3 consists of the Counties of Siskiyou, Trinity, Tehama, Modoc, Lassen, Plumas, and Shasta.

(d) District 4 consists of the Counties of Glenn, Colusa, Butte, and Yolo.

(e) District 5 consists of the County of Solano.

(f) District 6 consists of the Counties of Sierra, Sutter, Yuba, Sacramento, El Dorado, Placer, and Nevada.

(g) District 7 consists of the Counties of Calaveras, Amador, San Joaquin, Stanislaus, Tuolumne, Alpine, Alameda, Contra Costa, Santa Clara, and San Mateo, and the City and County of San Francisco.

(h) District 8 consists of the Counties of Merced, Monterey, Mariposa, Santa Cruz, San Luis Obispo, San Benito, and Madera.

(i) District 9 consists of the Counties of Fresno, Kings, and Tulare.

(j) District 10 consists of the Counties of Kern, Mono, and Inyo.

(k) District 11 consists of the Counties of Los Angeles, Imperial, San Diego, San Bernardino, Riverside, Santa Barbara, Ventura, and Orange.

The boundaries of any district may be changed by a two-thirds vote of the commission, which is concurred in by the director, when necessary to maintain similar total production among the districts and to ensure proper representation by producers. These boundaries need not coincide with county lines.

76227. "Handler" means any person engaged in the marketing of wool which he or she has produced or purchased or acquired from a producer, or is marketing on behalf of a producer whether as owner, agent, employee, broker or otherwise.

76227.5. "Market" means to sell, ship, distribute, or otherwise handle wool.

76228. "Marketing research" means any research relating to the marketing of sheep, wool, and the products derived therefrom.

76229. "Marketing season" or "fiscal year" means the period beginning July 1 of any year and extending through the last day of June of the next year.

76230. "Producer" means any person in this state who raises, breeds, grows, or feeds sheep, and markets, or causes to be marketed, the wool derived therefrom and who, upon request, provides proof of commodity sale during the preceding marketing season. "Producer" does not include any person who markets 500 pounds or less of wool in the preceding marketing season.

76231. "Production research" means any research relating to the production of sheep, wool, and the products derived therefrom.

76232. "Ex officio member" means a nonvoting member of the commission.

76233. "Wool" means the shorn or pulled fleece or fiber of sheep in the grease basis, including wool tags in the natural state before cleaning or scouring.

Article 3. The California Sheep Commission

76251. (a) There is in the state government the California Sheep Commission. The commission shall be composed of 13 sheep producers and one public member. Producers within districts 1 to 9, inclusive, shall each elect one producer to serve on the commission. Producers within districts 10 and 11 shall each elect two producers to serve on the commission.

(b) The public member shall be appointed to the commission by

the director from nominees recommended by the commission.

(c) The director and other appropriate individuals, as determined by the commission, shall be ex officio members of the commission.

76252. (a) The director may require the commission to correct or cease any existing activity or function which is determined by the director not to be in the public interest or which is in violation of this chapter.

(b) If the commission refuses or fails to cease these activities or functions or to make these corrections as required by the director, the director may, upon written notice, suspend all or a portion of the activities or functions of the commission until the time that the cessation or correction of activities or functions as required by the director has been accomplished by the commission.

(c) Actions of the commission in violation of the written notice are without legal force or effect. The director, to the extent feasible, shall issue the written notice prior to the commission entering into any contractual relationship affecting the existing or proposed activities or functions which are the subject of the written notice.

(d) Upon service of the written notice, the director shall notify the commission in writing of the specific acts which he or she determines are not in the public interest or are in violation of this chapter, his or her reasons for requiring a cessation or correction of specific existing or proposed activities or functions, and he or she may make recommendations that will make the activities or functions acceptable.

76253. The commission or the director may bring an action for judicial relief from the director's written notice, or from noncompliance by the commission with the written notice, as the case may be, in a court of competent jurisdiction, which may issue a temporary restraining order, permanent injunction, or other applicable relief.

76254. When the director is required to concur in a decision of the commission, he or she shall indicate his or her response to the commission within 15 working days from notification of the decision. The response may be a request that additional information be provided.

76255. The commission shall reimburse the director for all expenditures incurred by the director in carrying out his or her duties and responsibilities pursuant to this chapter. However, the court may, if it finds that the director acted arbitrarily or capriciously in restricting the activities or functions of the commission, relieve the commission of the responsibility for payment of the director's legal costs with regard to that action.

76256. Each member of the commission, except the ex officio members, shall have an alternate member to be elected in the same manner as the member. An alternate member shall, in the absence of the member for whom he or she is an alternate, serve in place of the member on the commission, and shall have and be able to exercise all the rights, privileges, and powers of the member when

serving on the commission. In the event of death, removal, resignation, or disqualification of a member, the alternate shall act as a member on the commission until a successor is elected and has qualified.

76257. Any vacancy on the commission occurring by the failure of any person elected to the commission as a member or alternate member to continue in his or her position due to a change in status, making him or her ineligible to serve, or due to death, removal, or resignation, shall be filled, for the unexpired portion of the term, by a majority vote of the commission. That person shall fulfill all the qualifications set forth in this article as required for the member whose office he or she is to fill.

76257.5. Any producer member or his or her alternate on the commission shall be an individual or an employee representing a producer who has a financial interest in producing, or causing to be produced, wool for market. The qualifications of a producer member and an alternate producer member shall be maintained during the entire term of office.

76258. The public member or his or her alternate on the commission, shall have all the powers, rights, and privileges of any other member on the commission. The public member shall not have any financial interest in the sheep or wool industry.

76259. The term of office of all members of the commission, except ex officio members, shall be two years from the date of their election and until their successors are qualified. However, of the first members of the commission, one-half of the producers shall serve for one year, and one-half of the producers shall serve for two years, with the determination of the term of each such member made by lot at the time of the election. Terms of office of each member of the commission shall be limited to four consecutive terms. A member of the commission who was selected by lot to serve a one-year term may serve four consecutive terms in addition to the first one-year term.

76260. The commission shall be and is hereby declared and created a corporate body. It shall have the power to sue and be sued, to contract and be contracted with, and to have and possess all of the powers of a corporation. It may adopt a corporate seal. Copies of its proceedings, records, and acts, when authenticated, shall be admissible in evidence in all courts of the state and shall be prima facie evidence of the truth of all statements therein.

76261. A quorum of the commission shall be eight voting members of the commission. Except as provided in Sections 76226 and 76382.5, the vote of a majority of members present at a meeting at which there is a quorum shall constitute the act of the commission.

76262. The director or his or her representatives shall be notified and may attend each meeting of the commission and any committee meeting of the commission.

76263. No member of the commission or member of a committee established by the commission who is a nonmember of the commission shall receive a salary. Each member of the commission,

except ex officio government members, and each member of a committee established by the commission who is a nonmember of the commission, may receive a sum not to exceed one hundred dollars ($100) per day, as established by the commission. This per diem shall be paid to members for each day spent in actual attendance at, or in traveling to and from, meetings of the commission or committees of the commission, or on special assignment for the commission, as approved by the commission. Members shall also receive the necessary traveling expenses and meal allowances, as approved by the commission.

76264. All funds received by any person from the assessments levied under the authority of this chapter or otherwise received by the commission shall be deposited in banks which the commission may designate and shall be disbursed by order of the commission through an agent or agents as it may designate for that purpose. The agent or agents shall be bonded by a fidelity bond, executed by a surety company authorized to transact business in this state, in favor of the commission, in the amount of not less than twenty-five thousand dollars ($25,000).

76265. The state is not liable for the acts of the commission or its contracts. Payments of all claims arising by reason of the administration of this chapter or acts of the commission are limited to the funds collected by the commission. No member of the commission, alternate member, or any employee or agent thereof, is personally liable for the contracts of the commission. No member of the commission, alternate member, or any employee or agent thereof, is responsible individually in any way to any producer, processor, handler, or any other person for errors in judgment, mistakes, or other acts, either of commission or omission, as principal, agent, or employee, except for his or her own individual acts of dishonesty or crime. No member of the commission, alternate member, or any employee or agent thereof, is responsible individually for any act or omission of any other member of the commission. Liability is several and not joint, and no member of the commission, alternate member, or any employee or agent thereof, is liable for the default of any other member of the commission.

Article 4. Powers and Duties of the Commission

76281. The powers and duties of the commission shall include, but are not limited to, all of those contained in this article.

76282. The commission may adopt and from time to time alter, rescind, modify, and amend all proper and necessary bylaws, rules, regulations, operating procedures, and orders for carrying out this chapter, including rules for appeals from any bylaw, rule, regulation, operating procedure, or order of the commission.

76283. The commission may administer and enforce this chapter and to do and perform all acts and exercise all powers incidental to, or in connection with, or deemed reasonably necessary for proper or

advisable effectuation of this chapter. The commission's authority includes, but is not limited to, entering into contracts for services with public and private agencies which are deemed necessary by the commission to carry out this chapter.

76284. The commission may appoint its own officers, including a chairman, one or more vice chairmen, and such other officers as it deems necessary. The officers shall have the powers and duties delegated to them by the commission.

76285. The commission may 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, necessary to carry out the provisions of this chapter. The commission may retain a management firm or the staff from any board, commission, or committee of the state to perform the functions prescribed by this section under the control of the commission. If the person engages in any conduct which the director determines is not in the public interest or which is in violation of this chapter, the director shall notify the commission of the conduct and request that corrective and, if appropriate, disciplinary action be taken by the commission. In the event that the commission fails or refuses to correct the situation or to take disciplinary action satisfactory to the director, the director may suspend or discharge the person.

76286. The commission may fix the compensation for all employees of the commission.

76287. The commission may appoint committees composed of both members and nonmembers of the commission including, but not limited to, a committee of handlers, to advise the commission in carrying out this chapter.

76288. The commission may establish offices, incur expenses, enter into any and all contracts and agreements, create liabilities, and borrow funds in advance of receipt of assessments as may be necessary in the opinion of the commission for the proper administration and enforcement of this chapter and the performance of its duties.

76289. The commission shall keep accurate books, records, and accounts of all of its dealings, which shall be subject to an annual audit by an auditing firm selected by the commission with the concurrence of the director. A summary of the audit shall be made a part of an annual report to all producers, copies of which shall also be submitted to the Legislature and the department. 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.

76290. The commission may promote the sale of lamb, wool, and the products derived therefrom by advertising and other promotional means, including cost-sharing advertising, for the purpose of maintaining and expanding present markets and creating new and larger intrastate, interstate, and foreign markets for lamb and wool, and to educate and instruct the public with respect to the many and varied uses of lamb, wool, and the products derived

therefrom.

76291. The commission may educate and instruct the wholesale and retail trade with respect to proper methods of handling and selling wool.

76291.3. The commission may make market surveys and analyses.

76291.5. The commission may present facts to, and negotiate with, state, federal, and foreign agencies on matters which affect this chapter.

76292. The commission may make, in its name, contracts to render service in formulating and conducting plans and programs and any other contracts or agreements that the commission may deem necessary for carrying out the purposes of this chapter.

76293. The commission may conduct, and contract with others to conduct, research, including the study, analysis, dissemination, and accumulation of information obtained from the research or elsewhere, regarding this chapter. In connection with the research, the commission may accept contributions of, or match, private, state, or federal funds that may be available for its purposes, and employ or make contributions of funds to other persons or state or federal agencies conducting the research.

76294. The commission may publish and distribute, without charge, a bulletin or other communication for dissemination of information to producers and handlers.

76295. The commission may establish an assessment rate to defray operating costs of the commission.

76296. The commission may establish an annual budget according to accepted accounting practices. The budget shall be concurred in by the director prior to disbursement of funds, except for disbursements made pursuant to Section 76286.

76297. The commission may submit to the director, for his or her concurrence, an annual statement of contemplated activities authorized pursuant to this chapter.

76298. The commission may 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.

Article 5. Implementation and Voting Procedures

76311. (a) Not later than April 1, 1986, or as soon thereafter as possible, the director shall establish a list of producers eligible to vote on implementation of this chapter. In establishing the list, the director may require that handlers, producers, and others submit the names and mailing addresses of all producers. The director also may require that the information provided include the quantity of wool produced by each producer or, in the alternative, may establish procedures for receiving the information at the time of the referendum vote specified in Section 76312. The request for the information shall be in writing. The information shall be filed within

30 days following receipt of the written request.

(b) Any producer whose name does not appear on the director's list may have his or her name established on the list by filing with the director a signed statement, identifying himself or herself as a producer. Failure to be on the list does not exempt the producer from paying assessments.

76312. This chapter, except as necessary to conduct an implementation referendum vote, shall not become operative until the director finds in a referendum vote conducted by the director that at least 40 percent of the total number of producers from the list established by the director pursuant to this article, participate, and that either of the following occurred:

(a) Sixty-five percent or more of the producers who voted in the referendum voted in favor of the provisions of this chapter, and the producers so voting marketed a majority of the total quantity of wool in the preceding season by all of the producers who voted in the referendum.

(b) A majority of the producers who voted in the referendum voted in favor of this chapter, and the producers so voting marketed 65 percent or more of the total quantity of wool in the preceding season by all of the producers who voted in the referendum.

76313. The director shall establish a period in which to conduct the referendum which shall not be less than 10 days nor more than 60 days in duration, and may prescribe additional procedures that may be necessary to conduct the referendum. If the initial period established is less than 60 days, the director may extend the period, however the total referendum period may not exceed 60 days.

76314. Nonreceipt of a ballot shall not invalidate a referendum.

76315. If the director finds that a favorable vote has been given as provided in Section 76312, he or she shall certify and give notice of the favorable vote to all producers whose names and addresses may be on file with the director.

76316. If the director finds that a favorable vote has not been given as provided in Section 76312, he or she shall certify and declare all provisions of this chapter inoperative.

76317. Upon certification of the commission, the director shall contact all producers in each district by mail, or call meetings of producers in each district for the purpose of nominating and electing persons for appointment to the commission. All producers on the director's list shall be given written notice of any election meetings at least 15 days prior to the meeting date.

76318. To be eligible for election to the commission, producer nominees must present to the director a nomination petition with the signatures of at least 10 eligible producers from the district from which the nominee is seeking election.

76319. Subsequent to the first election of members of the commission pursuant to this chapter, persons to be elected to the commission shall be selected pursuant to nomination and election procedures as shall be established by the commission with the

concurrence of the director.

76320. (a) Prior to the referendum vote conducted by the director pursuant to Section 76312, the proponents of the commission shall deposit with the director the amount that the director deems necessary to defray the expenses of preparing the necessary lists and information and conducting the vote.

(b) Any funds not used in carrying out Section 76312 shall be returned to the proponents of the commission who deposited the funds with the director.

(c) Upon establishment of the commission, the commission is authorized to reimburse the proponents of the commission for any funds deposited with the director which were used in carrying out Section 76312, and for any legal expenses and costs incurred in establishing the commission.

Article 6. Assessments and Records

76341. (a) The commission shall, not later than June 1 of each year, establish the assessment for the following marketing season.

(b) The assessment for the marketing season beginning on July 1, 1986, and ending on June 30, 1987, shall not exceed one and one-half cents ($0.015) per pound on all wool marketed by producers, as determined by the commission.

(c) For the marketing season beginning on July 1, 1987, and thereafter, the assessment shall not exceed four cents ($0.04) per pound on all wool marketed by producers, as determined by the commission.

(d) Assessments provided for in this section shall be upon the producer. The handler shall deduct the assessment from amounts paid by him or her to the producer and shall be a trustee of those funds until they are paid to the commission at the time and in the manner prescribed by the commission.

(e) A fee greater than the amount provided for in subdivision (c) may not be charged unless and until a greater fee is approved by producers pursuant to the procedures specified in Section 76312.

76341.5. This chapter does not apply to the wool produced only for the producer's home use. However, the producer shall file an affidavit with the commission establishing that he or she has not marketed the wool. The commission shall then determine whether the affidavit should be approved.

76342. Every handler shall keep a complete and accurate record of all wool handled with the name of the producer whose wool was handled. The records shall be in simple form and contain information as the commission shall prescribe. The records shall be preserved by the handler for a period of two years and shall be offered and submitted for inspection at any reasonable time upon written demand of the commission or its duly authorized agent.

76343. All proprietary information obtained by the commission or the director from producers or handlers, and all lists of producers

in the possession of the commission or the director are confidential and shall not be disclosed except when required in a judicial proceeding. Information on volume shipments, commodity value, and other related information which is required for reports to governmental agencies, financial reports made to the commission or aggregate sales and inventory information, and any other information which the handlers request from the commission to receive in total, excluding individual handler information, may be disclosed by the commission.

76344. Every handler shall be personally liable for the payment of collected assessments and failure of a handler to collect the assessment from a producer shall not exempt the handler from liability.

76345. Any assessment which is levied as provided for in this chapter is a personal debt of every producer so assessed. Failure of a handler to collect the assessment shall not relieve the producer of the obligation to pay the assessment.

76346. Any producer or handler who fails to file a return or pay any assessment within the time required by the commission shall pay to the commission a penalty of 10 percent of the amount of the assessment determined to be due and, in addition, 1½ percent interest per month on the unpaid balance.

76347. When the handler is a corporation, all of the directors and officers of the corporation in their capacity as individuals shall be included, and any liability for failing to collect or make payment of assessments, of which a corporate handler may be subject to under this chapter, shall also include identical liability upon each director or officer of the corporation.

Article 7. Actions and Penalties

76361. It is unlawful for any person to do any of the following:

(a) Willfully render or furnish a false report, statement, or record required by the commission.

(b) When engaged in the handling of wool, to fail or refuse to furnish the commission or its duly authorized agents, information concerning the name and address of the persons from whom wool has been received and the quantity so received.

(c) Secrete, destroy, or alter records required to be kept under this chapter.

76362. The commission shall establish procedures 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. Appeals from decisions of the commission may be made to the director. The determination of the director shall be subject to judicial review upon petition, filed with the appropriate superior court.

76363. The commission may commence civil actions and utilize all remedies provided in law or equity for the collection of

assessments and civil penalties, and for the obtaining of injunctive relief or specific performance, regarding this chapter and the rules and regulations adopted pursuant to this chapter. A court shall issue to the commission any requested writ of attachment or injunctive relief upon a prima facie showing by verified complaint that a named defendant has violated this chapter or any other rule or regulation of the commission, including, but not limited to, the nonpayment of assessments. No bond shall be required to be posted by the commission as a condition for the issuance of any writ of attachment or injunctive relief.

A writ of attachment shall be issued pursuant to Chapter 5 (commencing with Section 485.010) of Title 6.5 of Part 2 of the Code of Civil Procedure, except that the showing specified in Section 485.010 of the Code of Civil Procedure is not required. Injunctive relief shall be issued pursuant to Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, except that the showing of irreparable harm or inadequate remedy at law specified in Section 526 and 527 of the Code of Civil Procedure is not required.

Upon entry of any final judgment on behalf of the commission against any defendant, the court shall enjoin the defendant from conducting any type of business regarding the commodity subject to this chapter until there is full compliance and satisfaction of the judgment. Upon a favorable verdict for the commission, it shall be entitled to receive reimbursement for any reasonable attorney's fees and other actual related costs. Venue for these actions may be established at the domicile or place of business of the defendant or in the county of the principal office of the commission. The commission may be sued only in the county of its principal office.

Article 8. Continuation or Suspension and Termination

76381. From July 1, 1990, to June 30, 1991, inclusive, the commission shall cause a referendum to be conducted among producers to determine whether the operations of this chapter shall be approved and continued in effect. A favorable vote under this chapter shall be found if the director determines from the referendum that a majority of the eligible producers voting in the referendum voted in favor of continuing the operations of this chapter. If the director finds that a favorable vote has been given, he or she shall so certify and this chapter shall remain effective. If the director finds that a favorable vote has not been given, he or she shall so certify and declare the operation of this chapter and the commission suspended upon expiration of the marketing season ending June 30, 1991. Thereupon, operations of the commission shall be concluded and funds distributed in the manner provided in Section 76383. No bond or security shall be required for any such referendum.

76382. Following a favorable referendum conducted prior to

June 30, 1991, a referendum shall be conducted by the commission every fifth year thereafter between October 1 and January 31, following procedures provided in Section 76381, unless a referendum is conducted as the result of a petition pursuant to this article. In that case, the referendum shall be every fifth year following the industry petitioned referendum following procedures provided for in Section 76381.

76382.5. Upon a finding by a two-thirds vote of the commission that the operation of this chapter has not tended to effectuate its declared purposes, the commission may recommend to the director that the operation of this chapter be suspended. However, any suspension shall not become effective until the expiration of the current marketing season. The director shall, upon receipt of the recommendation, or may after a public hearing to review a petition filed with him or her requesting a suspension and signed by 20 percent of the producers by number who produced not less than 20 percent of the volume of wool in the immediately preceding season, hold a referendum among the producers to determine if the operations of the commission shall be suspended. However, the director shall not hold a referendum as a result of the petition unless the petitioner shows, by the weight of evidence, that the operation of this chapter has not tended to effectuate its declared purposes. The director shall establish a referendum period, which shall not be less than 10 days nor more than 60 days in duration. The director may prescribe additional procedures as may be necessary to conduct the referendum. At the close of the established referendum period, the director shall tabulate the ballots filed during the period. If at least 40 percent of the total number of producers from the list established by the director participate in the referendum, the director shall suspend the operation of this chapter if he or she finds either one of the following has occured:

(a) Sixty-five percent or more of the producers, who voted in the referendum, voted in favor of suspension, and the producers so voting marketed 50 percent or more of the total quantity of wool marketed in the preceding marketing season by all of the producers who voted in the referendum.

(b) A majority of the producers who voted in the referendum voted in favor of suspension, and the producers so voting marketed 65 percent or more of the total quantity of wool marketed in the preceding marketing season by all of the producers who voted in the referendum.

76382.6. The director shall terminate the commission at the end of the current marketing season if the director finds that the termination of the commission is requested in writing, within a 90-day period, by at least 51 percent of the eligible producers that are directly affected that produce at least 51 percent of the volume of the product.

The person or persons originating the request shall file a written notice with the director in a manner that establishes the date the

request is initiated. Any person may withdraw his or her name from the petition requesting the termination prior to the time the request is presented to the director.

The signatures to the petition requesting the termination need not all be appended to one sheet of paper. Each person signing the petition shall add to his or her signature his or her place of business, giving street and number. If no street and number exist, then a designation of the place of business shall be given which will enable the location to be readily ascertained.

The petition shall bear a copy of the notice of intention. Signatures shall be secured within the time limit specified in this section.

76383. After the effective date of suspension of the operation of this chapter, the operation of the commission shall be concluded and any and all funds remaining held by the commission, collected by assessment and not required to defray the expenses of concluding and terminating operations of the commission, shall be returned upon a pro rata basis to all persons from whom assessments were collected in the immediately preceding marketing season. However, if the commission finds that the amounts so returnable are so small as to make impractical the computation and remitting of the prorate refund to these persons, any funds remaining after payment of all expenses of winding up and terminating operations shall be withdrawn from the approved depository and paid into an appropriate program conducted by the University of California or the California State University system, another state agency, or a federal agency which deals with the purposes of this chapter. If no program exists, the funds shall be paid into the State Treasury as unclaimed trust funds.

76384. Upon suspension of the operation of this chapter, the commission shall mail a copy of the notice of suspension to all producers affected by the suspension whose names and addresses are on file.

SEC. 2. No reimbursement is required by this act pursuant to 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 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 1103

An act to add Article 2 (commencing with Section 6420) of Chapter 5 of Division 6 of the Fish and Game Code, relating to fish.

[Approved by Governor September 27, 1985 Filed with Secretary of State September 28, 1985.]

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

SECTION 1. Article 2 (commencing with Section 6420) is added to Chapter 5 of Division 6 of the Fish and Game Code, to read:

Article 2. Artificial Reefs

6420. 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 the placement of artifical reefs need to be investigated.

(c) A program of artificial reef research and development, including reef design, placement, and monitoring, is in the public interest and can best be accomplished under the administration of the department with the cooperation and assistance of the University of California, the California State University, other established, appropriate academic institutions, and other organizations with demonstrated expertise in the field.

(d) A state artificial reef research and construction program under the administration of the department is necessary to coordinate ongoing studies and construction of artificial reefs in waters of the state.

6421. For purposes of this article, the following terms have the following meaning:

(a) "Artificial reef" means manmade or natural objects intentionally placed in selected areas of the marine environment to duplicate those conditions that induce production of fish and invertebrates on natural reefs and rough bottoms, and that stimulate the growth of kelp or other midwater plant life which creates natural habitat for those species.

(b) "Production" means increases in the biomass of a species or number of species.

(c) "Program" means the California Artificial Reef Program.

6422. The department shall administer the California Artificial Reef Program.

6423. The program shall include all of the following:

(a) The placement of artificial reefs in state waters.

(b) A study of existing successful reefs and all new reefs placed by the program to determine the design criteria needed to construct artificial reefs capable of increasing fish and invertebrate production in waters of the state.

(c) A determination of the requirements for reef siting and placement.

6424. The amount allocated for the administration of the program in any fiscal year may not exceed the amount authorized by applicable state and federal policy guidelines.

6425. (a) It is the intent of the Legislature that not more than five hundred thousand dollars ($500,000) shall be allocated to the

program for the 1985–86 fiscal year.

(b) It is the intent of the Legislature that future sources of funding for the program may include, but are not limited to, the Fish and Game Preservation Fund, the California Environmental License Plate Fund, the Wildlife Restoration Fund, recreational bond act funds, federal grants-in-aid, county fish and game propagation funds, and private donations.

CHAPTER 1104

An act to amend Section 25402.1 of the Public Resources Code, relating to energy resources, and making an appropriation therefor.

[Approved by Governor September 27, 1985. Filed with Secretary of State September 28, 1985]

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

SECTION 1. Section 25402.1 of the Public Resources Code is amended to read:

25402.1. In order to implement the requirements of subdivisions (a) and (b) of Section 25402, the commission shall do all of the following:

(a) Develop a public domain computer program which will enable contractors, builders, architects, engineers, and government officials to estimate the energy consumed by residential and nonresidential buildings. The commission may charge a fee for the use of the program, which fee shall be based upon the actual cost of the program, including any computer costs.

(b) Establish a formal process for certification of compliance options for new products, materials, and calculation methods which provides for adequate technical and public review to ensure accurate, equitable, and timely evaluation of certification applications. Proponents filing applications for new products, materials, and calculation methods shall provide all information needed to evaluate the application that is required by the commission. The commission shall publish annually the results of its certification decisions and instructions to users and local building officials concerning requirements for showing compliance with the building standards for new products, materials, or calculation methods. The commission may charge and collect a reasonable fee from applicants to cover the costs under this subdivision. Any funds received by the commission for purposes of this subdivision shall be deposited in the Energy Resources Programs Account and, notwithstanding Section 13340 of the Government Code, are continuously appropriated to the commission for the purposes of this subdivision. Any unencumbered portion of funds collected as a fee for an application remaining in the Energy Resources Programs

Account after completion of the certification process for that application shall be returned to the applicant within a reasonable period of time.

(c) Include a prescriptive method of complying with the standards, including design aids such as a manual, sample calculations, and model structural designs.

(d) Certify, no later than 180 days after approval of the standards by the State Building Standards Commission, an energy conservation manual for use by designers, builders, and contractors of residential and nonresidential buildings. The manual shall be furnished upon request at a price sufficient to cover the costs of production and shall be distributed at no cost to all affected local agencies. The manual shall contain, but not be limited to, the following:

(1) The standards for energy conservation established by the commission.

(2) Forms, charts, tables, and other data to assist designers and builders in meeting the standards.

(3) Design suggestions for meeting or exceeding the standards.

(4) Any other information which the commission finds will assist persons in conforming to the standards.

(5) Instructions for use of the computer program for calculating energy consumption in residential and nonresidential buildings.

(6) The prescriptive method for use as an alternative to the computer program.

(e) The commission shall establish a continuing program of technical assistance to local building departments in the enforcement of subdivisions (a) and (b) of Section 25402 and this section. The program shall include the training of local officials in building technology and enforcement procedures related to energy conservation, and the development of complementary training programs conducted by local governments, educational institutions, and other public or private entities. The technical assistance program shall include the preparation and publication of forms and procedures for local building departments in performing the review of building plans and specifications. The commission shall provide, on a contract basis, a review of building plans and specifications submitted by a local building department, and shall adopt a schedule of fees sufficient to repay the cost of those services.

(f) Subdivisions (a) and (b) of Section 25402 and this section, and the rules and regulations of the commission adopted pursuant thereto, shall be enforced by the building department of every city, county, or city and county.

(1) No building permit for any residential or nonresidential building shall be issued by a local building department, unless a review by the building department of the plans for the proposed residential or nonresidential building contains detailed energy system specifications and confirms that the building satisfies the minimum standards established pursuant to subdivision (a) or (b) of Section 25402 and this section applicable to the building.

(2) Where there is no local building department, the commission shall enforce subdivisions (a) and (b) of Section 25402 and this section.

(3) If a local building department fails to enforce subdivisions (a) and (b) of Section 25402 and this section or any other provision of this chapter or standard adopted pursuant thereto, the commission may provide enforcement after furnishing 10 days' written notice to the local building department.

(4) A city, county, or city and county may, by ordinance or resolution, prescribe a schedule of fees sufficient to pay the costs incurred in the enforcement of subdivisions (a) and (b) of Section 25402 and this section. The commission may establish a schedule of fees sufficient to pay the costs incurred by that enforcement.

(g) Subdivisions (a) and (b) of Section 25402 and this section shall apply only to new residential and nonresidential buildings on which actual site preparation and construction have not commenced prior to the effective date of rules and regulations adopted pursuant to those sections that are applicable to those buildings. Nothing in those sections shall prohibit either of the following:

(1) The enforcement of state or local energy conservation or energy insulation standards, adopted prior to the effective date of rules and regulations adopted pursuant to subdivisions (a) and (b) of Section 25402 and this section with regard to residential and nonresidential buildings on which actual site preparation and construction have commenced prior to that date.

(2) The enforcement of city or county energy conservation or energy insulation standards, whenever adopted, with regard to residential and nonresidential buildings on which actual site preparation and construction have not commenced prior to the effective date of rules and regulations adopted pursuant to subdivisions (a) and (b) of Section 25402 and this section, if the city or county files the basis of its determination that the standards are cost effective with the commission and the commission finds that the standards will require the diminution of energy consumption levels permitted by the rules and regulations adopted pursuant to those sections. If, after two or more years after the filing with the commission of the determination that those standards are cost effective, there has been a substantial change in the factual circumstances affecting the determination, upon application by any interested party, the city or county shall update and file a new basis of its determination that the standards are cost effective. The determination that the standards are cost effective shall be adopted by the governing body of the city or county at a public meeting. If, at the meeting on the matter, the governing body determines that the standards are no longer cost effective, the standards shall, as of that date, be unenforceable and no building permit or other entitlement shall be denied based on the noncompliance with the standards.

(h) The commission may exempt from the requirements of this

section and of any regulations adopted pursuant thereto any proposed building for which compliance would be impossible without substantial delays and increases in cost of construction, if the commission finds that substantial funds have been expended in good faith on planning, designing, architecture or engineering prior to the date of adoption of the regulations.

(i) If a dispute arises between an applicant for a building permit and the building department regarding interpretation of Section 25402 or the regulations adopted pursuant thereto, either party may submit the dispute to the commission for resolution. The commission's determination of the matter shall be binding on the parties.

(j) Nothing in Section 25130, 25131, or 25402, or in this section shall be construed to prevent enforcement of any regulation adopted pursuant to this chapter, or Chapter 11.5 (commencing with Section 19878) of Part 3 of Division 13 of the Health and Safety Code as they existed prior to September 16, 1977.

CHAPTER 1105

An act authorizing the grant and conveyance of property known as Otterbein State Recreation Area to the County of Los Angeles.

[Approved by Governor September 27, 1985. Filed with Secretary of State September 28, 1985.]

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

SECTION 1. The Director of General Services is hereby authorized to grant and convey to the County of Los Angeles all the right, title, and interest of the state in that property known as Otterbein State Recreation Area on condition that the property be used as a public park and recreation area and that park improvements conform to the Otterbein State Recreation Area General Plan adopted pursuant to Section 5002.2 of the Public Resources Code and current at the time of transfer, except that the plan may be amended in accordance with the procedures for amendment of specific plans set forth in Article 8 (commencing with Section 65450) and Article 9 (commencing with Section 65500) of Chapter 3 of Division 1 of Title 7 of the Government Code, with duly noticed public hearings conducted by both the County of Los Angeles Regional Planning Commission and the County of Los Angeles Board of Supervisors prior to adoption. In reviewing any amendment of that plan, the county board of supervisors shall consider the development criteria of Section 5019.56 of the Public Resources Code.

Upon any breach of those conditions, the state may reenter the property, and upon that reentry, the interest of the County of Los

Angeles shall terminate and ownership shall be entirely in the state.

SEC. 2. The Legislature hereby finds and declares that a statewide public purpose is served by the grant of the property known as Otterbein State Recreation Area to the County of Los Angeles for use as a public park and recreation area under the administration and management of the county.

CHAPTER 1106

An act to amend Section 7267.2 of the Government Code, relating to eminent domain.

[Approved by Governor September 27, 1985 Filed with Secretary of State September 28, 1985]

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

SECTION 1. Section 7267.2 of the Government Code is amended to read:

7267.2. (a) 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 the 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 the 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.

(b) Notwithstanding subdivision (a), a public entity may make an offer to the owner or owners of record to acquire real property for less than an amount which it believes to be just compensation

therefor if (1) the real property is offered for sale by the owner at a specified price less than the amount the public entity believes to be just compensation therefor, (2) the public entity offers a price which is equal to the specified price for which the property is being offered by the landowner, and (3) no federal funds are involved in the acquisition, construction, or project development.

(c) As used in subdivision (b), "offered for sale" means any of the following:

(1) Directly offered by the landowner to the public entity for a specified price in advance of negotiations by the public entity.

(2) Offered for sale to the general public at an advertised or published, specified price set no more than six months prior to and still available at the time the public entity initiates contact with the landowner regarding the public entity's possible acquisition of the property.

CHAPTER 1107

An act to add Section 30176 to the Public Resources Code, relating to the coastal zone.

[Approved by Governor September 27, 1985 Filed with Secretary of State September 28, 1985]

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

SECTION 1. Section 30176 is added to the Public Resources Code, to read:

30176. (a) As used in this section, the Famosa Slough property is defined as follows:

That portion of Pueblo Lot 211 of the Pueblo Lands of San Diego, in the City of San Diego, County of San Diego, State of California, according to the map thereof made by James Pascoe in 1870, a copy of which map was filed in the Office of County Recorder of San Diego County, and is known as Miscellaneous Map No. 36, and a portion of Block "D" of Loma Alta No. 2, according to Map No. 1082, filed in the Office of County Recorder of San Diego County, and being more particularly described as a whole as follows:

Beginning at the intersection of the westerly line of Loma Palisades Unit No. 3, according to Map No. 3798, filed in the Office of County Recorder of San Diego County, February 5, 1958, with the southerly line of West Point Loma Boulevard as the intersection is shown on Map No. 3798, thence along the westerly and northwesterly boundary of Map No. 3798 as follows: south 06°11'20" east 710.65 feet; and south 36°09'50" west, 495.24 feet to an angle point therein, being also a point in the southeasterly line of Block "D" of Loma Alta No. 2; thence along the southeasterly line of Block "D" and the southwesterly prolongation thereof, south 36°09'50" west,

689.91 feet to the intersection with the southwesterly line of Block "D"; thence along the boundary of Block "D" as follows: thence north 53°50'00" west, 86.60 feet to an angle point therein; thence north 00°49'00" east, 1,547.80 feet to an intersection with the southerly line of West Point Loma Boulevard; thence along the southerly line as follows: north 84°54'00" east, 664.47 feet to the westerly terminus of a curve therein having a radius of 1,950.00 feet, as shown on Map No. 3798, and easterly along the arc of the curve through a central angle of 00°12'08" (record 00°12'08" per deed recorded December 31, 1968, as file/page 229499) a distance of 13.13 feet to the point of beginning.

(b) The State Coastal Conservancy and the Department of Fish and Game shall, jointly, in consultation with the owners of the properties described in subdivision (a), prepare and submit to the commission a plan which provides for the delineation of the developable area and wetland restoration of the Famosa Slough property and the restoration to wetland of the 10-acre property owned by the City of San Diego known as Famosa Channel. In preparing the plan, the conservancy and the Department of Fish and Game shall determine the size of the developable area of the Famosa Slough property by doing both of the following:

(1) Within a range of 5 to 10 acres, determining the area of the upland located on the Famosa Slough and Famosa Channel properties.

(2) Subtracting from the upland acreage the area needed for peripheral upland around Famosa Slough and Famosa Channel, and the area needed for a buffer, as determined in this subdivision, between the wetland and the development. The plan shall provide for restoration of the Famosa Slough property and the Famosa Boulevard right-of-way located between Camulos Street and Montalvo Street, not in the developable area, and the Famosa Channel, to the condition of a healthy and viable natural wetlands capable of attracting and sustaining species of plant and animal life native to a brackish marsh environment through appropriate means, including, particularly, the reestablishment of adequate saltwater flushing and measures for the mitigation of the effects of upstream runoff. The plan shall determine the location of development and wetland areas on the Famosa Slough property and the size and location of a buffer between the development and the wetlands, which is to be designed by the Department of Fish and Game. The plan shall also set forth arrangements for the maintenance of the wetlands, the wetland buffer, and peripheral upland slopes that will assure their perpetual health and viability. The plan shall include a design of a complete ecosystem that will achieve restoration and perpetuation of the wetlands in the manner described in this subdivision. A permanent easement shall be granted to the conservancy, or its assignee, on that portion of the wetland, wetland buffer, and peripheral upland slope areas described in subdivision (a) and this subdivision after restoration. Not later than 60 days after

the plan has been submitted to it, the commission shall, after a public hearing and by a majority vote of those present, determine whether the plan raises no substantial issue as to conformity with this section. If the commission determines that no substantial issue is raised, the plan shall be deemed certified as submitted. The commission shall adopt findings to support its action.

(c) The owner of the property described in subdivision (a) shall implement or provide funds to the conservancy sufficient to implement half of the cost of the plan specified in subdivision (b). The cost of, and adequacy of financing for, implementing the plan shall be approved by the conservancy. The owner shall enter into an agreement with the conservancy to perpetually maintain the properties consistent with subdivision (b).

(d) The developable area in the Famosa Slough property shall be excluded from the coastal zone upon certification by the Coastal Commission of the plan as required by subdivision (b) and certification by the State Coastal Conservancy that subdivision (c) has been complied with.

CHAPTER 1108

An act to amend Sections 1170 and 1170.85 of the Penal Code, relating to sentencing.

[Approved by Governor September 27, 1985 Filed with Secretary of State September 28, 1985]

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

SECTION 1. Section 1170 of the Penal Code is amended to read:

1170. (a) (1) The Legislature finds and declares that the purpose of imprisonment for crime is punishment. This purpose is best served by terms proportionate to the seriousness of the offense with provision for uniformity in the sentences of offenders committing the same offense under similar circumstances. The Legislature further finds and declares that the elimination of disparity and the provision of uniformity of sentences can best be achieved by determinate sentences fixed by statute in proportion to the seriousness of the offense as determined by the Legislature to be imposed by the court with specified discretion.

(2) In any case in which the punishment prescribed by statute for a person convicted of a public offense is a term of imprisonment in the state prison of 16 months, two or three years; two, three, or four years; two, three, or five years; three, four, or five years; two, four, or six years; three, four, or six years; three, five, or seven years; three, six, or eight years; five, seven, or nine years; five, seven, or 11 years, or any other specification of three time periods, the court shall sentence the defendant to one of the terms of imprisonment

specified unless such convicted person is given any other disposition provided by law, including a fine, jail, probation, or the suspension of imposition or execution of sentence or is sentenced pursuant to subdivision (b) of Section 1168 because he had committed his crime prior to July 1, 1977. In sentencing the convicted person, the court shall apply the sentencing rules of the Judicial Council. The court, unless it determines that there are circumstances in mitigation of the punishment prescribed, shall also impose any other term which it is required by law to impose as an additional term. Nothing in this article shall affect any provision of law which imposes the death penalty, which authorizes or restricts the granting of probation or suspending the execution or imposition of sentence, or expressly provides for imprisonment in the state prison for life. In any case in which the amount of preimprisonment credit under Section 2900.5 or any other provision of law is equal to or exceeds any sentence imposed pursuant to this chapter, the entire sentence, including any period of parole under Section 3000, shall be deemed to have been served and the defendant shall not be actually delivered to the custody of the Director of Corrections. However, any such sentence shall be deemed a separate prior prison term under Section 667.5, and a copy of the judgment and other necessary documentation shall be forwarded to the Director of Corrections.

(b) When a judgment of imprisonment is to be imposed and the statute specifies three possible terms, the court shall order imposition of the middle term, unless there are circumstances in aggravation or mitigation of the crime. At least four days prior to the time set for imposition of judgment, either party or the victim, or the family of the victim if the victim is deceased, may submit a statement in aggravation or mitigation to dispute facts in the record or the probation officer's report, or to present additional facts. In determining whether there are circumstances that justify imposition of the upper or lower term, the court may consider the record in the case, the probation officer's report, other reports including reports received pursuant to Section 1203.03 and statements in aggravation or mitigation submitted by the prosecution, the defendant, or the victim, or the family of the victim if the victim is deceased, and any further evidence introduced at the sentencing hearing. The court shall set forth on the record the facts and reasons for imposing the upper or lower term. The court may not impose an upper term by using the fact of any enhancement upon which sentence is imposed under Section 667.5, 1170.1, 12022, 12022.5, 12022.6, or 12022.7. A term of imprisonment shall not be specified if imposition of sentence is suspended.

(c) The court shall state the reasons for its sentence choice on the record at the time of sentencing. The court shall also inform the defendant that as part of the sentence after expiration of the term he or she may be on parole for a period as provided in Section 3000.

(d) When a defendant subject to this section or subdivision (b) of Section 1168 has been sentenced to be imprisoned in the state prison

and has been committed to the custody of the Director of Corrections, the court may, within 120 days of the date of commitment on its own motion, or at any time upon the recommendation of the Director of Corrections or the Board of Prison Terms, recall the sentence and commitment previously ordered and resentence the defendant in the same manner as if he or she had not previously been sentenced, provided the new sentence, if any, is no greater than the initial sentence. The resentence under this subdivision shall apply the sentencing rules of the Judicial Council so as to eliminate disparity of sentences and to promote uniformity of sentencing. Credit shall be given for time served.

(e) Any sentence imposed under this article shall be subject to the provisions of Sections 3000 and 3057 and any other applicable provisions of law.

(f) (1) Within one year after the commencement of the term of imprisonment, the Board of Prison Terms shall review the sentence to determine whether the sentence is disparate in comparison with the sentences imposed in similar cases. If the Board of Prison Terms determines that the sentence is disparate, the board shall notify the judge, the district attorney, the defense attorney, the defendant, and the Judicial Council. The notification shall include a statement of the reasons for finding the sentence disparate.

Within 120 days of receipt of this information, the sentencing court shall schedule a hearing and may recall the sentence and commitment previously ordered and resentence the defendant in the same manner as if the defendant had not been sentenced previously, provided the new sentence is no greater than the initial sentence. In resentencing under this subdivision the court shall apply the sentencing rules of the Judicial Council and shall consider the information provided by the Board of Prison Terms.

(2) The review under this section shall concern the decision to deny probation and the sentencing decisions enumerated in paragraphs (2), (3), (4), and (5) of subdivision (a) of Section 1170.3 and apply the sentencing rules of the Judicial Council and the information regarding the sentences in this state of other persons convicted of similar crimes so as to eliminate disparity of sentences and to promote uniformity of sentencing.

(g) Prior to sentencing pursuant to this chapter, the court may request information from the Board of Prison Terms concerning the sentences in this state of other persons convicted of similar crimes under similar circumstances.

(h) A sentence to state prison for a determinate term for which only one term is specified, is a sentence to state prison under this section.

SEC. 2. Section 1170 of the Penal Code is amended to read:

1170. (a) (1) The Legislature finds and declares that the purpose of imprisonment for crime is punishment. This purpose is best served by terms proportionate to the seriousness of the offense

with provision for uniformity in the sentences of offenders committing the same offense under similar circumstances. The Legislature further finds and declares that the elimination of disparity and the provision of uniformity of sentences can best be achieved by determinate sentences fixed by statute in proportion to the seriousness of the offense as determined by the Legislature to be imposed by the court with specified discretion.

(2) In any case in which the punishment prescribed by statute for a person convicted of a public offense is a term of imprisonment in the state prison of 16 months, two or three years; two, three, or four years; two, three, or five years; three, four, or five years; two, four, or six years; three, four, or six years; three, five, or seven years; three, six, or eight years; five, seven, or nine years; five, seven, or 11 years, or any other specification of three time periods, the court shall sentence the defendant to one of the terms of imprisonment specified unless such convicted person is given any other disposition provided by law, including a fine, jail, probation, or the suspension of imposition or execution of sentence or is sentenced pursuant to subdivision (b) of Section 1168 because he had committed his crime prior to July 1, 1977. In sentencing the convicted person, the court shall apply the sentencing rules of the Judicial Council. The court, unless it determines that there are circumstances in mitigation of the punishment prescribed, shall also impose any other term which it is required by law to impose as an additional term. Nothing in this article shall affect any provision of law which imposes the death penalty, which authorizes or restricts the granting of probation or suspending the execution or imposition of sentence, or expressly provides for imprisonment in the state prison for life. In any case in which the amount of preimprisonment credit under Section 2900.5 or any other provision of law is equal to or exceeds any sentence imposed pursuant to this chapter, the entire sentence, including any period of parole under Section 3000, shall be deemed to have been served and the defendant shall not be actually delivered to the custody of the Director of Corrections. However, any such sentence shall be deemed a separate prior prison term under Section 667.5, and a copy of the judgment and other necessary documentation shall be forwarded to the Director of Corrections.

(b) When a judgment of imprisonment is to be imposed and the statute specifies three possible terms, the court shall order imposition of the middle term, unless there are circumstances in aggravation or mitigation of the crime. At least four days prior to the time set for imposition of judgment, either party or the victim, or the family of the victim if the victim is deceased, may submit a statement in aggravation or mitigation to dispute facts in the record or the probation officer's report, or to present additional facts. In determining whether there are circumstances that justify imposition of the upper or lower term, the court may consider the record in the case, the probation officer's report, other reports including reports received pursuant to Section 1203.03 and statements in aggravation

or mitigation submitted by the prosecution, the defendant, or the victim, or the family of the victim if the victim is deceased, and any further evidence introduced at the sentencing hearing. The court shall set forth on the record the facts and reasons for imposing the upper or lower term. The court may not impose an upper term by using the fact of any enhancement upon which sentence is imposed under Section 667.5, 1170.1, 12022, 12022.4, 12022.5, 12022.6, or 12022.7. A term of imprisonment shall not be specified if imposition of sentence is suspended.

(c) The court shall state the reasons for its sentence choice on the record at the time of sentencing. The court shall also inform the defendant that as part of the sentence after expiration of the term he or she may be on parole for a period as provided in Section 3000.

(d) When a defendant subject to this section or subdivision (b) of Section 1168 has been sentenced to be imprisoned in the state prison and has been committed to the custody of the Director of Corrections, the court may, within 120 days of the date of commitment on its own motion, or at any time upon the recommendation of the Director of Corrections or the Board of Prison Terms, recall the sentence and commitment previously ordered and resentence the defendant in the same manner as if he or she had not previously been sentenced, provided the new sentence, if any, is no greater than the initial sentence. The resentence under this subdivision shall apply the sentencing rules of the Judicial Council so as to eliminate disparity of sentences and to promote uniformity of sentencing. Credit shall be given for time served.

(e) Any sentence imposed under this article shall be subject to the provisions of Sections 3000 and 3057 and any other applicable provisions of law.

(f) (1) Within one year after the commencement of the term of imprisonment, the Board of Prison Terms shall review the sentence to determine whether the sentence is disparate in comparison with the sentences imposed in similar cases. If the Board of Prison Terms determines that the sentence is disparate, the board shall notify the judge, the district attorney, the defense attorney, the defendant, and the Judicial Council. The notification shall include a statement of the reasons for finding the sentence disparate.

Within 120 days of receipt of this information, the sentencing court shall schedule a hearing and may recall the sentence and commitment previously ordered and resentence the defendant in the same manner as if the defendant had not been sentenced previously, provided the new sentence is no greater than the initial sentence. In resentencing under this subdivision the court shall apply the sentencing rules of the Judicial Council and shall consider the information provided by the Board of Prison Terms.

(2) The review under this section shall concern the decision to deny probation and the sentencing decisions enumerated in paragraphs (2), (3), (4), and (5) of subdivision (a) of Section 1170.3

and apply the sentencing rules of the Judicial Council and the information regarding the sentences in this state of other persons convicted of similar crimes so as to eliminate disparity of sentences and to promote uniformity of sentencing.

(g) Prior to sentencing pursuant to this chapter, the court may request information from the Board of Prison Terms concerning the sentences in this state of other persons convicted of similar crimes under similar circumstances.

(h) A sentence to state prison for a determinate term for which only one term is specified, is a sentence to state prison under this section.

SEC. 3. Section 1170.85 of the Penal Code is amended to read:

1170.85. (a) Upon conviction of any felony assault or battery offense, it shall be considered a circumstance in aggravation of the crime in imposing a term under subdivision (b) of Section 1170 if the offense was committed to prevent or dissuade a person who is or may become a witness from attending upon or testifying at any trial, proceeding, or inquiry authorized by law, or if the offense was committed because the person provided assistance or information to a law enforcement officer, or to a public prosecutor in a criminal or juvenile court proceeding.

(b) Upon conviction of any felony it shall be considered a circumstance in aggravation in imposing a term under subdivision (b) of Section 1170 if the victim of an offense is particularly vulnerable, or unable to defend himself or herself, due to age or significant disability.

SEC. 4. Section 2 of this bill incorporates amendments to Section 1170 of the Penal Code proposed by both this bill and SB 428. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1986, (2) each bill amends Section 1170 of the Penal Code, and (3) this bill is enacted after SB 428, in which case Section 1 of this bill shall not become operative.

CHAPTER 1109

An act to amend Sections 7054, 7117, and 10376 of, and to repeal and add Section 7054.6 of, the Health and Safety Code, relating to human remains.

[Approved by Governor September 27, 1985 Filed with Secretary of State September 28, 1985]

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

SECTION 1. Section 7054 of the Health and Safety Code is amended to read:

7054. (a) Except as authorized pursuant to the section referred to in subdivision (b), every person who deposits or disposes of any

human remains in any place, except in a cemetery, is guilty of a misdemeanor.

(b) Cremated remains may be disposed of pursuant to Sections 7117 and 10376.5 or Sections 7054.6 and 10376.5.

SEC. 2. Section 7054.6 of the Health and Safety Code is repealed.

SEC. 3. Section 7054.6 is added to the Health and Safety Code, to read:

7054.6. Cremated remains may be removed in a durable container from the place of cremation or interment and kept in the dwelling owned or occupied by the person having the right to control disposition of the remains under Section 7100, or the durable container holding the cremated remains may be kept in a church or religious shrine, if written permission of the church or religious shrine is obtained and there is no conflict with local use permit requirements or zoning laws, if the removal is under the authority of a permit for disposition granted under Section 10376.5. The placement, in any place, of six or more cremated remains under this section does not constitute the place a cemetery, as defined in Section 8100.

SEC. 4. Section 7117 of the Health and Safety Code is amended to read:

7117. Cremated remains may be taken by boat from any harbor in this state, or by air, for burial at sea. Cremated remains shall be removed from their container before the remains are buried at sea.

Any person who buries at sea, either from a boat or from the air, any human cremated remains shall file with the local registrar of births and deaths in the county nearest the point where the remains were buried, a verified statement containing the name of the deceased person, the time and place of death, the place at which the cremated remains were buried, and any other information that the local registrar of births and deaths may require. The first copy of the endorsed permit shall be filed with the local registrar of births and deaths within 10 days of disposition. The third copy shall be returned to the office of issuance.

Notwithstanding any other provision of this code, the cremated remains of a deceased person may be buried at sea as provided in this section and Section 10376.5.

SEC. 5. Section 10376 of the Health and Safety Code is amended to read:

10376. (a) If the certificate of death is properly executed and complete, the local registrar of births and deaths shall issue a permit for disposition, which in all cases, shall specify any one of the following:

(1) The name of the cemetery where the remains shall be interred.

(2) Burial at sea as provided in Section 7117.

(3) The address of the location where the cremated remains will be kept, as provided in Section 7054.6, under the conditions the state registrar may approve, including, but not limited to, conditions in

keeping with public sensibilities, applicable laws, and reasonable assurances that the disposition will be carried out in accordance with the prescribed conditions and will not constitute a private or public nuisance.

(b) Notwithstanding any other provisions of this division relative to issuance of a permit for disposition, whenever the death occurred from a disease declared by the state department to be infectious, contagious, or communicable and dangerous to the public health, no permit for the disposition of the body shall be issued by the local registrar, except under those conditions which may be prescribed by the state department and local health officers.

SEC. 6. No reimbursement is required by this act pursuant to 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 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 1110

An act to amend Sections 1596.890 and 1597.09 of, to amend and renumber Section 1597.98 of, and to add Sections 1596.793, 1596.891, 1596.892, and 1596.99 to, the Health and Safety Code, relating to child day care.

[Approved by Governor September 27, 1985. Filed with Secretary of State September 28, 1985.]

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

SECTION 1. Section 1596.793 is added to the Health and Safety Code, to read:

1596.793. This chapter and Chapters 3.5 (commencing with Section 1596.90) and 3.6 (commencing with Section 1597.30) do not apply to recreation programs conducted for children by the Girl Scouts, Boy Scouts, Boys Club, Girls Club, or Camp Fire, or similar organizations as determined by regulations of the department.

SEC. 1.5. Section 1596.890 of the Health and Safety Code is amended to read:

1596.890. Any person who willfully or repeatedly violates any provision of this chapter, or any rule or regulation promulgated under this chapter is guilty of a misdemeanor. Upon conviction thereof, such a person 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 the fine and imprisonment. The operation of a child day care facility without a license issued pursuant to this chapter shall make the owner or operator, or both, subject to a summons to appear in court.

SEC. 2. Section 1596.891 is added to the Health and Safety Code, to read:

1596.891. (a) A person who violates Section 1596.80 may be liable for an immediate assessment of civil penalties in the amount of two hundred dollars ($200) per day.

(b) The penalty specified in subdivision (a) shall be imposed if the operator of an unlicensed facility refuses to seek licensure or the operator seeks licensure and is denied but continues to operate.

(c) The operator may appeal the assessment to the director. The department shall adopt regulations setting forth the appeals procedure.

(d) The operator shall be exempt from the civil penalty specified in subdivision (a) if a lack of liability insurance is the sole reason for nonlicensure and the reason for operating without liability insurance is not due to any fault on the part of the operator.

SEC. 3. Section 1596.892 is added to the Health and Safety Code, to read:

1596.892. The civil, criminal, and administrative remedies available to the department pursuant to this article are not exclusive, and may be sought and employed in any combination deemed advisable by the department to enforce the provisions of this chapter.

SEC. 4. Section 1596.99 is added to the Health and Safety Code, to read:

1596.99. (a) In addition to suspension or revocation of a license issued under this chapter, the Department may levy a civil penalty. The civil penalty may be in addition to the penalties of suspension or revocation.

(b) The amount of the civil penalty may not be less than twenty-five dollars ($25) nor more than fifty dollars ($50) per day for each violation of this chapter except where (1) the nature of the violation, (2) the seriousness of the violation, (3) the frequency of the violation, or (4) any combination of these factors warrants a higher penalty or an immediate civil penalty assessment as specified in subdivision (c), or both. In no event shall a civil penalty assessment exceed one hundred fifty dollars ($150) per day.

(c) Facilities cited for a repeated serious deficiency shall be subject to an immediate civil penalty assessment of one hundred fifty dollars ($150) and fifty dollars ($50) per day thereafter until the deficiency is corrected.

(d) Facilities which are assessed civil penalties under subdivision (c) and which repeat the deficiency shall be subject to an immediate assessment of one hundred fifty dollars ($150) and one hundred fifty dollars ($150) per day thereafter until the deficiency is corrected.

SEC. 5. Section 1597.09 of the Health and Safety Code is amended to read:

1597.09. Site visitations shall be made as provided in this section as follows:

(a) A site visitation to all licensed day care centers shall be made

annually and as often as necessary to ensure compliance.

(b) A site visitation shall be required for the renewal of a license.

SEC. 6. Section 1597.98 of the Health and Safety Code is amended and renumbered to read:

1596.98. The department shall notify the day care center in writing of all deficiencies in its compliance with this chapter and the rules and regulations adopted pursuant to this chapter, and shall set a reasonable length of time for compliance by the center. Upon a finding of noncompliance, the department may levy a civil penalty which shall be paid to the department each day until the department finds the center in compliance.

SEC. 7. No reimbursement shall be made from the State Mandates Claims Fund pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code for costs mandated by the state pursuant to this act. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Part 7 (commencing with Section 17500) and any other provisions of law.

CHAPTER 1111

An act to amend Section 11114 of the Penal Code, relating to missing persons.

[Approved by Governor September 27, 1985 Filed with Secretary of State September 28, 1985]

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

SECTION 1. Section 11114 of the Penal Code is amended to read:

11114. (a) All local police and sheriffs' departments shall accept any report, including any telephonic report, of a missing person, including runaways, without delay. In cases where the report is taken by a department other than that of the city or county of residence of the missing person or runaway, the department taking the report shall, without delay, notify, and forward a copy of the report when completed to, the police or sheriff's department or departments having jurisdiction of the residence address of the missing person or runaway and of the place where the person was last seen. The report shall be transmitted by the department which took the report to the State Department of Justice, in a format and according to procedures established by the State Department of Justice, which shall transmit the report to the National Crime Information Center Missing Person System, or, at the option of the local police or sheriff's department, the local police or sheriff's department may transmit the report directly to federal agencies. If the person reported missing is under 12 years of age, the local police or sheriff's department shall transmit the report to the National Crime Information Center Missing Person

System within four hours after accepting the report. The police or sheriff's department having jurisdiction of the place in which the person reported missing was last seen may initiate the investigation of the location of the missing person, irrespective of the area of jurisdiction of the department taking the report.

(b) When any person makes a report of a missing person to a police or sheriff's department or other law enforcement authority, the person making the report shall be given in person or by mail a form supplied by the Department of Justice authorizing the release of the dental records of the person reported missing. Included with such form shall be instructions which state that if the person reported missing is still missing 30 days after the report is made, the release form signed by a member of the family or next of kin of the missing person should be taken to the dentist or dentists of the missing person to obtain the release of the dental records and that dental records should be submitted within 10 days by the person to whom released to the police or sheriff's department or other law enforcement authority to which the missing person report was made. When the person reported missing has not been found within 30 days and no family or next of kin exists or can be located, the law enforcement authority may execute a written declaration, stating that an active investigation seeking the location of the missing person is being conducted, and that the dental records are necessary for the exclusive purpose of furthering the investigation. The written declaration, signed by a peace officer, is sufficient authority for the dentist or dentists to release the missing person's dental records.

(c) When a person reported missing has not been found within 45 days, the sheriff, chief of police, or other law enforcement authority initiating and conducting the investigation for the missing person shall confer with the coroner or medical examiner prior to the preparation of a missing person report. After conferring with the coroner or medical examiner, the sheriff, chief of police, or other law enforcement authority initiating and conducting the investigation for the missing person shall submit a missing person report and the dental records received pursuant to subdivision (b) to the Department of Justice on forms supplied by the department for such purpose.

(d) Notwithstanding subdivisions (b) and (c), the form provided under subdivision (b) shall state that if the person reported missing is under 18 years of age, the form should be taken to the dentist or dentists immediately when the law enforcement authority determines that the disappearance was under suspicious circumstances, and that dental records should be submitted immediately thereafter to the law enforcement authority. Where authorized to execute a written declaration to obtain the release of dental records, the law enforcement authority may do so immediately when a person reported missing who is under 18 years of age is determined by the authority to have disappeared under suspicious circumstances. In that case, the law enforcement authority

should confer immediately with the coroner or medical examiners and should submit its report including the dental records within 24 hours thereafter to the Department of Justice.

(e) When a person reported missing has been found, the sheriff, chief of police, coroner or medical examiner, or other law enforcement authority shall report that information to the Department of Justice. After receiving that report, the department shall erase all records with respect to that person which are maintained pursuant to subdivision (f).

(f) The Department of Justice shall maintain a file of information concerning persons reported to it as missing and who have not been reported as found. The file shall contain the information referred to in subdivision (c) and any other information that the Department of Justice finds to be relevant to assisting in the location of a missing person.

The Department of Justice files shall be made available to law enforcement agencies attempting to locate missing persons. The department shall develop a system of cataloging missing person reports according to a variety of characteristics to facilitate locating particular categories of reports as needed.

SEC. 2. The Department of Justice shall conduct a study to determine if the establishment of time limitations for forwarding reports of missing minors by local agencies to state and federal authorities would expedite the location of or enhance the probability of locating those minors. The department shall report its findings to the Legislature no later than July 1, 1987.

SEC. 3. The Legislature declares that this act mandates a new program or higher level of service on local government. As required by Section 6 of Article XIII B of the California Constitution, reimbursement to local agencies and school districts for costs mandated by the state pursuant to this act shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code and, if the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), shall be made from the State Mandates Claims Fund.

CHAPTER 1112

An act to add and repeal Section 14031.11 of the Government Code, relating to passenger trains.

[Approved by Governor September 27, 1985 Filed with Secretary of State September 28, 1985]

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

SECTION 1. Section 14031.11 is added to the Government Code, to read:

14031.11. (a) The department may make bulk purchases of passenger tickets for the San Francisco Peninsula commute corridor service from the Southern Pacific Transportation Company for resale to the public at less than the cost of the tickets to the department.

(b) The director shall determine the resale price of these tickets purchased by the department.

(c) The department shall report to the Legislature on or before December 31, 1987, on its implementation of this section.

(d) This section shall remain in effect only until January 1, 1988, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1988, deletes or extends that date.

SEC. 2. Nothing in this act shall be construed to violate the existing labor agreements, as of April 1, 1985, between the Southern Pacific Transportation Company and the Brotherhood of Railway, Airline and Steamship Clerks, Freight Handlers, Express and Station Employees, or to authorize, because of resale of tickets pursuant to Section 14031.11 of the Government Code, the elimination of any present employee position to perform ticket sales under the existing Scope Agreement, as of that date, unless modified by a subsequent Scope Agreement.

CHAPTER 1113

An act to amend Section 886.5 of the Welfare and Institutions Code, relating to juvenile court law.

[Approved by Governor September 27, 1985 Filed with Secretary of State September 28, 1985]

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

SECTION 1. Section 886.5 of the Welfare and Institutions Code is amended to read:

886.5. Notwithstanding the provisions of Section 886, a juvenile home, ranch, camp, or forestry camp may receive or contain a maximum of 125 children at any one time if the county has submitted a request for approval for expanded capacity to the Department of the Youth Authority demonstrating a need for juvenile home, ranch, camp, or forestry camp placements which exceeds the beds available in the county, and the department has approved that request. Any request from a county to expand the capacity of a juvenile home, ranch, camp or forestry camp pursuant to this section shall certify that the facility to be expanded will continue to meet the minimum standards adopted and prescribed pursuant to Section 885 during the period of expanded capacity. The department shall approve any such

request only after confirming by inspection of the facility sought to be expanded that the facility will comply with the minimum standards during its period of expanded capacity.

The Legislature finds and declares that the unique population pressures on juvenile detention facilities in Kern and Los Angeles Counties justify an authorization for limited term expansion, consistent with the safeguards set forth in this section, of the juvenile homes, ranches, camps and forestry camps in these two counties. Accordingly, the provisions of this section shall be applicable only to Kern and Los Angeles Counties.

The provisions of this section shall be operative only until January 1, 1989, and on that date are repealed unless a statute effective on or before that date deletes or extends that date.

CHAPTER 1114

An act to amend Sections 20100.2 and 21253 of, and to add Section 21253.1 to, the Government Code, relating to the Public Employees' Retirement System, and making an appropriation therefor.

[Approved by Governor September 27, 1985 Filed with Secretary of State September 28, 1985]

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

SECTION 1. Section 20100.2 is added to the Government Code, to read:

20100.2. The system shall pay one hundred dollars ($100) to the employer of a member of the board who is an employee of a school employer or a contracting public agency for every day or portion thereof of actual attendance at meetings of the board or any meeting of any committee of the board conducted for the purpose of carrying out the powers and duties of the board.

SEC. 2. Section 21253 of the Government Code is amended to read:

21253. Notwithstanding any other provision of law, and with respect only to an election by a contracting agency to amend its contract to become subject to Section 21252.6 or 21252.61 instead of Section 21252.1, the following shall apply:

(a) Members who are on the amending agency's active payroll on the effective date of such contract amendment shall elect in writing within 90 days after such effective date to be subject to Section 21252.1 or 21252.61, as applicable, or 21252.6 with respect to all safety service performed for such contracting agency.

(b) Members on such effective date, who are former employees of such amending agency, and whose service for such amending agency was subject to Section 21252.1, shall retain their rights under Section 21252.1.

(c) Former members who upon reentry into state service elect to redeposit contributions, shall be subject to Section 21252.6 or 21252.61, as applicable, with respect to all safety service performed for such amending agency prior to the effective date of such contract amendment.

(d) Notwithstanding Section 21251.15, a former member who reinstates to such amending agency as a local safety member must elect within 90 days of such reinstatement whether to be subject to Section 21252.6 or 21252.61, as applicable, or 21252.1 with respect to all such service with that contracting agency prior to the effective date of the contract amendment. Such election shall be effective only if the reinstated member remains in such employment for at least one year subsequent to reinstatement.

SEC. 3. Section 21253.1 is added to the Government Code, to read:

21253.1. Whenever a contracting agency amends its contract to become subject to Section 21251.61 instead of Section 21252.6, a member who previously elected, pursuant to Section 21253, to remain subject to Section 21252.1 shall elect in writing within 90 days of notification by the board whether to be subject to Section 21252.61 or Section 21252.1.

CHAPTER 1115

An act to amend Section 1296 of the Education Code, relating to schools.

[Approved by Governor September 27, 1985 Filed with Secretary of State September 28, 1985]

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

SECTION 1. Section 1296 of the Education Code is amended to read:

1296. (a) If the average daily attendance of the schools and classes maintained by a county superintendent of schools is 250 or more, each person who, after being employed for three complete consecutive school years by the superintendent in a teaching position in those schools or classes requiring certification qualifications and whose salary is paid from the county school service fund, is reelected for the next succeeding school year to such a position in those schools or classes, shall be classified as and become a permanent employee of the county superintendent of schools.

Such an employee shall have the same rights and duties as employees of school districts to which Section 44882 applies. Sections 44841, 44842, 44882, 44948.3, and 44948.5 are applicable to these employees.

This subdivision shall apply only to probationary employees whose

probationary period commenced prior to the 1983–84 fiscal year.

(b) If the average daily attendance of the schools and classes maintained by a county superintendent of schools is 250 or more, each person who, after being employed for two complete consecutive school years by the superintendent in a teaching position in those schools or classes requiring certification qualifications and whose salary is paid from the county school service fund, is reelected for the next succeeding school year to such a position in those schools or classes, shall be classified as and become a permanent employee of the county superintendent of schools.

The county superintendent of schools shall notify the employee, on or before March 15 of the employee's second complete consecutive year of employment by the superintendent in a teaching position in schools or classes maintained by the superintendent requiring certification qualifications, of the decision to reelect or not reelect the employee for the next succeeding school year to such a position in those schools. In the event that the county superintendent does not give notice pursuant to this section on or before March 15, the employee shall be deemed reelected for the next succeeding school year.

Such an employee shall have the same rights and duties as employees of school districts to which Section 44882 applies. Sections 44841, 44842, 44882, 44948.3, and 44948.5 are applicable to these employees.

This subdivision shall apply only to probationary employees whose probationary period commenced during the 1983–84 fiscal year or any fiscal year thereafter.

(c) As used in this section, "teaching position" means any certificated position designated as of January 1, 1983, by the county board of education or the county superintendent of schools as a teaching position for the purpose of granting probationary or permanent status.

SEC. 2. No reimbursement shall be made from the State Mandates Claims Fund pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code for costs mandated by the state pursuant to this act. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Part 7 (commencing with Section 17500) and any other provisions of law.

CHAPTER 1116

An act to add Sections 300.6 and 300.7 to the Health and Safety Code, relating to health.

[Approved by Governor September 28, 1985 Filed with Secretary of State September 28, 1985]

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

SECTION 1. (a) The Legislature hereby finds and declares as follows:

(1) Lead has no known nutritional value and is highly toxic in small amounts, especially to infants and children.

(2) Lead has caused a significant lowering of the intelligence quotient among some children in the United States, impairing the mental ability of perhaps as many as 2,000,000 of them.

(b) It is the intent of this act to ameliorate the harmful effects of lead on children by restricting its use on conduits providing a water supply.

SEC. 2. Section 300.6 is added to the Health and Safety Code, to read:

300.6. (a) Solders containing more than 0.20 percent lead shall not be used in making joints and fittings in any private or public potable water supply system or any water user's pipelines.

(b) No solder containing more than 0.20 percent lead shall be sold in California on and after July 1, 1986, unless it contains a warning label which states: "Contains lead. California law prohibits the use of this solder in making joints and fittings in any private or public potable water supply system or any water user's pipelines."

(c) On and after January 1, 1986, lead pipe shall not be used in the construction of private or public potable water supply systems.

(d) The requirements of subdivision (a) shall not be applicable to potable water supply pipelines in any building where the date of application for a building permit is prior to the effective date of the standards adopted pursuant to Section 300.7.

SEC. 3. Section 300.7 is added to the Health and Safety Code, to read:

300.7. The department shall adopt building standards which will limit the use of lead materials in public and private water systems. The standards shall be adopted in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code and shall be published in the State Building Standards Code located in Title 24 of the California Administrative Code. The standards shall be enforced by the appropriate state and local building and health officials.

SEC. 4. No reimbursement shall be made from the State Mandates Claims Fund pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code for costs mandated by the state pursuant to this act. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Part 7 (commencing with Section 17500) and any other provisions of law.

CHAPTER 1117

An act to amend Section 65913 of, and to add Section 65913.4 to, the Government Code, relating to housing.

[Approved by Governor September 28, 1985 Filed with Secretary of State September 28, 1985]

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

SECTION 1. Section 65913 of the Government Code is amended to read:

65913. (a) The Legislature finds and declares that there exists a severe shortage of affordable housing, especially for persons and families of low and moderate income, and that there is an immediate need to encourage the development of new housing, not only through the provision of financial assistance, but also through changes in law designed to do all of the following:

(1) Expedite the local and state residential development process.

(2) Assure that local governments zone sufficient land at densities high enough for production of affordable housing.

(3) Assure that local governments make a diligent effort through the administration of land use and development controls and the provision of regulatory concessions and incentives to significantly reduce housing development costs and thereby facilitate the development of affordable housing, including housing for elderly persons and families, as defined by Section 50067 of the Health and Safety Code.

These changes in the law are consistent with the responsibility of local government to adopt the program required by subdivision (c) of Section 65583.

(b) The Legislature further finds and declares that the costs of new housing developments have been increased, in part, by the existing permit process and by existing land use regulations and that vitally needed housing developments have been halted or rendered infeasible despite the benefits to the public health, safety, and welfare of those developments and despite the absence of adverse environmental impacts. It is, therefore, necessary to enact this chapter and to amend existing statutes which govern housing development so as to provide greater encouragement for local and state governments to approve needed and sound housing developments.

SEC. 2. Section 65913.4 is added to the Government Code, to read:

65913.4. (a) If a developer agrees to construct a housing development with 20 percent or more of the units reserved for occupancy by lower income households, as defined by Section 50079.5 of the Health and Safety Code, including elderly persons and families, as defined by Section 50067 of the Health and Safety Code,

who meet the criteria for lower income households, a city, county, or city and county issuing permits for the housing development shall, unless it makes one of the findings described in subdivision (b), provide at least one, and may provide more, of the following regulatory concessions or incentives to ensure that the housing development will be produced at a reduced cost:

(1) A reduction in site development standards or a modification of zoning code requirements or architectural design requirements which exceed the minimum building standards approved by the State Building Standards Commission as provided in Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code, including, but not limited to, a reduction in setback and square footage requirements and in the ratio of vehicular parking spaces that would otherwise be required.

(2) Density bonuses, as defined by Section 65915.

(3) Approval of mixed use zoning in conjunction with the housing project if commercial, office, industrial, or other land uses will reduce the cost of the housing development and if the commercial, office, industrial, or other land uses are compatible with the housing project and the existing or planned development in the area where the proposed housing project will be located.

(4) Other regulatory incentives or concessions proposed by the developer or the city, county, or city and county which result in identifiable cost reductions.

This subdivision does not limit or require the provision of direct financial incentives for the housing development, including the provision of publicly owned land, by the city, county, or city and county or the waiver of fees or dedication requirements.

Any density bonus granted pursuant to this subdivision is an alternative to, and not in addition to, a density bonus granted pursuant to Section 65915.

(b) After evaluating the regulatory concessions or incentives which could result in the housing development being produced at a reduced cost pursuant to subdivision (a), a city, county, or city and county may determine that it is unnecessary or inappropriate to take any of the actions identified in subdivision (a). This determination shall be supported by either of the following written findings:

(1) The housing development does not need additional local assistance because the reserved units in the development would be affordable to very low income households, as defined by Section 50105 of the Health and Safety Code, without additional assistance.

(2) The actions identified in subdivision (a) would have a substantial adverse impact upon the public health or safety. This finding shall be based upon substantial evidence in the public record.

(c) This section applies to any housing development containing five or more units, including, but not limited to, those developments that receive federal, state, or local construction or mortgage financing assistance, mortgage insurance, or rent subsidies. The units for lower income households specified in subdivision (a) shall be

reserved for a period of 10 years, or a longer period of time if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution 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 1118

An act to add and repeal Chapter 3.5 (commencing with Section 8600) of Part 6 of the Education Code, relating to education, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1985 Filed with Secretary of State September 28, 1985]

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

SECTION 1. Chapter 3.5 (commencing with Section 8600) is added to Part 6 of the Education Code, to read:

CHAPTER 3.5. MATHEMATICS, ENGINEERING, AND SCIENCE ACHIEVEMENT PROGRAM

Article 1. General Program

8600. The Legislature hereby recognizes that the connections made between the public and private sectors through the Mathematics, Engineering, and Science Achievement (MESA) program have resulted in better preparation of underrepresented students for college in mathematics- and science-based fields.

The Legislature further recognizes that the imposition of additional high school mathematics and English course requirements for admission to the University of California and the California State University requires that underrepresented students who aspire to professions in mathematics- and science-based fields be placed in the appropriate courses and receive comprehensive career counseling in grades 6 through 9.

It is the intent of the Legislature that the MESA program continue to coordinate the efforts of private industry and the segments of public education to improve the preparation of underrepresented students for college in math- and science-based fields, and that the MESA program operate under the guidance of its advisory board composed of representatives from private industry and the segments of public education.

8601. The Mathematics, Engineering, and Science Achievement (MESA) program is a cooperative effort by secondary and postsecondary educational institutions, working with private industry, to increase the number of students who graduate from college or university with the academic skills needed to gain employment in engineering, mathematics, and science-related professions in California. The goals of the program shall include, but not be limited to, all of the following:

(a) To increase the number of low-income and ethnic minority secondary school students who are adequately prepared in mathematics and science to pursue a mathematics-based course of study in college.

(b) To provide supplemental services at the college and university level which will result in a higher retention rate of low-income and ethnic minority students majoring in engineering, computer science, and other mathematics-based fields.

(c) To increase the number of college and university graduates from ethnic minority backgrounds who secure employment and careers in mathematics-based fields such as engineering, management, and computer service.

8602. (a) To accomplish the goals set forth in Section 8601, the program shall include the following two components:

(1) Precollege programming, including, but not limited to, services provided to pupils in grades 6 to 12, inclusive.

(2) College and university level programming, including, but not limited to, services provided to students who enter college after receiving MESA precollege services.

(b) The programming specified in subdivision (a) shall include, but not be limited to, services designed to accomplish all of the following:

(1) Encourage students in the secondary schools, with a particular emphasis on students in grades 9 to 12, inclusive, to acquire the academic skills needed to study mathematics, engineering, or related sciences at the postsecondary level.

(2) Promote students' awareness of career opportunities and the skills necessary to realize those opportunities sufficiently early in the students' educational careers to permit and encourage them to acquire those skills.

(3) Promote cooperation among postsecondary educational institutions, the Superintendent of Public Instruction, and school districts in working towards achieving the goals of the program.

(4) Solicit contributions of time and resources from public and private postsecondary educational institutions, high schools, and private business and industry.

8604. Subject to the approval of the Regents of the University of California, the MESA program shall be administered as a public service program through a cooperative effort involving the Superintendent of Public Instruction, the Regents of the University of California, the Trustees of the California State University, the

Board of Governors of the California Community Colleges, private industry, engineering societies, and professional organizations.

8606. (a) A MESA advisory board shall be established, and shall include, but not be limited to, representatives from all of the following:

(1) Private business and industry.

(2) Secondary educational institutions.

(3) Postsecondary educational institutions.

(b) The MESA advisory board shall do all of the following:

(1) Develop and recommend goals, objectives, and general policies for the operation and improvement of MESA.

(2) Assist in securing financial, human, and other resources for MESA from private and public sources.

(3) Review the fiscal affairs of MESA.

(4) Continuously evaluate the success of MESA in meeting the goals specified in Section 8601.

(5) Attract and enhance public, governmental, and industrial participation in MESA.

(6) Review general personnel plans for MESA.

8608. State funding for the MESA program shall be provided on a matching basis, so that the total dollar amount received from private sources equals at least 50 percent of the total dollar amount provided by the state.

8609. Prior to January 1, 1989, the California Postsecondary Education Commission shall report to the Legislature regarding all of the following:

(a) Whether MESA is operating as a cooperative effort of secondary and postsecondary educational institutions working with private industry, as specified in Section 8604.

(b) Whether the MESA advisory board is functioning as specified in Section 8606.

(c) Recommendations for the improvement of MESA operations, as appropriate and consistent with legislative intent stated in Section 8600.

8610. Commencing on January 1, 1988, the Regents of the University of California shall submit an annual report to the Legislature regarding the number of students served by MESA, and the success of the program in fulfilling the goals specified in Section 8601. The report shall be submitted on or before January 1 of each year.

Article 2. Model Engineering and Science Career Preparatory Program

8612. To supplement existing precollege programming, the MESA program shall develop a model comprehensive engineering and science career preparatory program designed to increase junior high school pupils' awareness of, and preparation for, career options in engineering and science. The objectives of the program shall be

all of the following:

(a) To increase the pool of low-income and ethnic minority students who complete junior high school prepared to embark upon a college preparatory high school program which includes four years of coursework in mathematics, English, and science, respectively.

(b) To increase the number of low-income and ethnic minority junior high school students who complete prealgebra and pregeometry courses.

(c) To enhance the content and consistency of general mathematics and science junior high school curricula.

(d) To provide junior high school teachers with in-service and other training opportunities which improve the quality of their instruction and their interaction with students.

The model program shall emphasize providing services to pupils in grades 6 to 9, inclusive, and shall include the involvement of industry and practicing engineers.

8614. In order to properly test and evaluate the model program developed pursuant to Section 8612, MESA shall establish pilot projects at a minimum of three centers located throughout California. Each center shall serve an area which includes at least four junior high schools and approximately 130 students.

8616. The California Postsecondary Education Commission shall evaluate the effectiveness of the pilot projects established pursuant to Section 8614. On or before September 1, 1989, the commission shall submit to the Legislature a report summarizing the evaluation, including, but not limited to, its recommendations regarding the merits of the model program.

8618. The sum of one hundred seventy-five thousand dollars ($175,000) is hereby appropriated from the General Fund to the University of California for the 1985–86 fiscal year, for allocation to the Mathematics, Engineering, and Science Achievement (MESA) program for purposes of funding the pilot projects established pursuant to Section 8614:

(b) It is the intent of the Legislature that funding for the continuation of the pilot projects established pursuant to Section 8614 through the 1988–89 fiscal year be provided through the appropriation for the University of California provided in the annual Budget Act.

(c) The funds appropriated for purposes of funding the pilot projects established pursuant to Section 8614 shall not be available for expenditure in any fiscal year unless the MESA program obtains one hundred seventy-five thousand dollars ($175,000) in matching funds from the private sector for that fiscal year. Upon certification by the program of the availability of matching funds, the Regents of the University of California shall transfer an amount equal to the amount of matching funds to the MESA program.

Article 3. General Provisions

8620. No provision of this chapter shall apply to the University of California unless the Regents of the University of California, by resolution, make that provision applicable.

8622. This chapter shall become inoperative on June 30, 1990, and, as of January 1, 1991, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1991, deletes or extends the dates on which it becomes inoperative and is repealed.

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 funding for the establishment of pilot projects pursuant to the provisions of this act in the 1985–86 fiscal year, it is necessary that this act take effect immediately.

CHAPTER 1119

An act to amend Section 15463 of, and to add Section 15462.5 to, the Government Code, and to amend Sections 16707 and 16709 of the Welfare and Institutions Code, relating to county health facilities, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1985 Filed with Secretary of State September 28, 1985]

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

SECTION 1. Section 15462.5 is added to the Government Code, to read:

15462.5. Exclusively for the purpose of securing the financing of projects through the issuance of revenue bonds through the authority, and notwithstanding any other law, any city and county or county may buy or lease health facilities from the authority, and in connection therewith, sell or lease health facilities to the authority in each case with the installment payment or rental provisions, term, payment, security default, remedy, and other terms or provisions as may be specified in the installment sale, lease, or other agreement or agreements, between the authority and the city and county or county, and the city and county or county may enter into any agreement for liquidity or credit enhancement it may deem necessary or appropriate in connection therewith. This section provides a complete, additional, and alternative method for performing the acts authorized by this section, and any sale or lease of health facilities to the authority, any purchase or lease of health facilities from the authority, and any agreement for liquidity or

credit enhancement in connection therewith, pursuant to this section, need not comply with the requirements of any other law applicable to sale, purchase, lease, or credit, as the case may be, by a city and county or county.

SEC. 1.5. Section 15463 of the Government Code is amended to read:

15463. (a) There is hereby created in the State Treasury, the County Health Facilities Financing Assistance Fund which, notwithstanding Section 13340, is continuously appropriated for the purposes of this section.

(b) The Controller shall transfer the following amounts to the fund:

(1) The unencumbered balances from appropriations pursuant to Sections 16702 and 16703 of the Welfare and Institutions Code from the 1981–82, 1982–83, and 1983–84 fiscal years, and each fiscal year thereafter, except any funds appropriated by the Legislature to the State Department of Health Services pursuant to subdivisions (a) and (e) of Section 16707 of the Welfare and Institutions Code and any funds contained in the County Medical Services Program Account or the County Medical Services Program Reserve Account established pursuant to Section 16709 of the Welfare and Institutions Code.

(2) Ten million dollars ($10,000,000) from that portion of the funds in the Special Account for Capital Outlay in the General Fund which is designated for county health authority local assistance.

(c) Investment income derived from moneys in the fund shall be utilized by the authority to provide assistance to counties to pay the debt service on loans for, or otherwise assist in the financing of, facilities, as defined in paragraph (8) of subdivision (d) of Section 15432, by doing any of the following:

(1) Paying not more than 50 percent of the debt service on loans for those facilities or on revenue bonds issued by the authority to finance those facilities, as determined by the authority.

(2) Paying the cost of insurance, letters of credit, lines of credit, or by utilizing other financial devices to enhance the credit of counties in order to secure the payment of debt service on loans for those facilities or on revenue bonds issued by the authority to finance those facilities.

(3) Paying costs, fees, and expenses incurred by counties or the authority in connection with issuing, carrying, or repaying the revenue bonds or financing, acquiring, or constructing those facilities.

(4) Providing any other financial, assistance or support for those facilities, including, but not limited to, payment of any outstanding indebtedness of the county for, or secured by, those facilities, as determined necessary or appropriate by the authority to carry out the purpose of this subdivision.

(d) The authority may create separate accounts within the fund for each facility assisted pursuant to subdivision (c) or for each assistance program.

(e) Any moneys in the fund which are not required for immediate use or disbursement, as determined by the authority, may be invested in any obligations, as specified by the authority, including, but not limited to, obligations that are exempt from federal income taxation pursuant to Section 103 of the Internal Revenue Code of 1954, as amended, and direct obligations of the United States issued in book entry form.

(f) Notwithstanding any other provision of law, interest earned on the investment of moneys in the fund shall be credited to the fund and shall be available for the purposes specified in subdivision (c).

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 and any other funds appropriated by the Legislature 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 State 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 each fiscal year to the amount of funds authorized through the regular budget process pursuant to subdivision (e) plus either of the following greater amounts: (1) 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 (2) two million two hundred thousand dollars ($2,200,000). Any funds in excess of that amount which are savings from the allocation made pursuant to Section 16702 and 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 transferred to the County Health Facilities Financing Assistance Fund created by subdivision (a) of Section 15463 of the Government Code.

(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.

SEC. 3. Section 16709 of the Welfare and Institutions Code, as amended by Section 1 of Chapter 588 of the Statutes of 1984, is amended to read:

16709. (a) The board of supervisors of a county with a population

under 300,000, as determined in accordance with the 1980 decennial census, may enter into a contract with the department and the department may enter into a contract with that county under which the department agrees to administer the program responsibilities for specified health services to county residents certified eligible for those services by the county. Any county may also elect to act jointly on a regional basis with other counties in assuming the program responsibilities and claim state funds on a joint basis.

(b) For the period from January 1, 1983, to June 30, 1983, each county intending to contract with the department pursuant to this section shall submit to the department a notice of intent to contract adopted by the board of supervisors no later than November 15, 1982. For each fiscal year thereafter, a notice adopted by the board of supervisors shall be submitted no later than April 1 of the fiscal year preceding the fiscal year for which the agreement will be in effect in accordance with procedures established by the department.

(c) A county contracting with the department pursuant to this section shall not be relieved of its indigent health care obligation under Section 17000.

(d) The department shall establish the County Medical Services Program Account, hereinafter referred to as the program account, in the County Health Services Fund. The following amounts may be deposited in the account:

(1) Moneys allotted under subdivisions (c) and (d) of Section 16703 to each county electing to contract with the department under this section.

(2) Any interest earned upon money deposited in the account.

(3) Any other additional moneys provided by participating counties or appropriated by the Legislature to the account.

(e) Moneys in the account specified in subdivision (d) shall be used by the department for both of the following purposes:

(1) To pay for health care services provided to the county residents meeting the eligibility criteria established pursuant to subdivision (j).

(2) To defray the department's administrative costs incurred in implementing this section. Costs for administering this section shall be borne by the participating counties out of the account specified in subdivision (d).

For costs of the initial implementation of this section, which are incurred prior to signing contracts with the counties, the department is authorized to transfer up to five hundred thousand dollars ($500,000) from Item 4260-101-001(b) to Item 4260-101-001(c) to fund fiscal intermediary changes and to Item 4260-001-001 to fund additional staff. The funds shall be repaid from the account specified in subdivision (d) to the General Fund by June 30, 1984. Any change order to the Medi-Cal fiscal intermediary contract that is required to carry out this section shall be exempted from the 30-day notice to the Legislature required by the Budget Act of 1982, Section 2, Item 4260-101-001, provision 22. This change order shall be exempt from

the Department of General Services review and approval. The funds shall be repaid by funds specified in subdivision (e) to the General Fund by June 30, 1984. Transfer of funds shall be subject to Department of Finance approval and legislative notification.

(f) Moneys in this account shall be administered on an accrual basis and notwithstanding any other provision of law, except as provided in this section, shall not 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. All interest or other increment resulting from the investment shall be deposited in the Program Account, at the end of the 1982–83 fiscal year and every six months thereafter, notwithstanding Section 16305.7 of the Government Code. All this interest shall be available to reimburse program-covered services, or for expenditure to augment the program's rates, benefits, or eligibility criteria pursuant to subdivision (j).

(g) The department shall establish a separate County Medical Services Program Reserve Account, hereinafter referred to as the reserve account, in the County Health Services Fund. Six months after the end of the 1982–83 fiscal year and thereafter, six months after the end of each fiscal year, any projected savings in the program account shall be transferred to the reserve account, with final settlement occurring no more than 12 months later. Moneys in this account shall be utilized when expenditures for health services made pursuant to subdivision (j) for a fiscal year exceed the amount of funds available in the program account for that fiscal year. When funds in the reserve account are estimated to exceed 10 percent of the total allocation available for health services made pursuant to subdivisions (c) and (d) of Section 16703 for all counties electing to contract with the department under this section for the fiscal year, the additional funds shall be available for expenditure to augment the rates, benefits, or eligibility criteria pursuant to subdivision (j).

(h) Moneys in the program account and the reserve account shall not 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. All interest or other increment resulting from investment shall be deposited in the program account, notwithstanding Section 16705.7 of the Government Code.

(i) Moneys appropriated pursuant to subdivisions (c) and (d) of Section 16703 for counties electing to contract with the department pursuant to this section shall be deposited monthly as provided in subdivision (b) of Section 16706 in the program account after execution of the contract specified in subdivision (a). The Department of Finance may accelerate the deposit of the funds when necessary to meet cash flow requirements.

(j) The state shall be at risk for any amount over and above the amounts deposited in the reserve account. As a condition of the state

assuming this risk, the department may require uniform eligibility criteria and benefits to be provided which shall be mutually established by participating counties in conjunction with the department. The department in consultation with the counties may revise these eligibility criteria and benefits or alter rates of payment during the fiscal year in order to assure that sufficient funds are available for health services to county residents certified as eligible for the services. The counties and the department shall work collectively to ensure that expenditures do not exceed the funds available in the program account and may adjust eligibility and benefit criteria and payments accordingly.

(k) The Legislature hereby determines that an expedited contract process for contracts under this section is necessary. Contracts under this section shall be exempt from the provisions of Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code. Contracts shall have no force and effect unless approved by the Department of Finance.

(*l*) The state shall not incur any liability except as specified in this section.

(m) Under the program provided for in this section, the department shall reimburse hospitals for inpatient services at the rates negotiated for the Medi-Cal program by the California Medical Assistance Commission, pursuant to Article 2.6 (commencing with Section 14081) of Chapter 7 of Part 3, if both of the following circumstances exist:

(1) The hospital has a contract with the state for these rates of reimbursement.

(2) The California Medical Assistance Commission determines that reimbursement to the hospital at the contracted rate will not have a detrimental fiscal impact on either the Medi-Cal program or the program provided for in this section. In negotiating and renegotiating contracts with hospitals, the commission may seek terms which allow reimbursement for patients receiving services under this section at contracted Medi-Cal rates.

Any hospital which has a contract with the state for inpatient services under the Medi-Cal program and which has been approved by the commission to be reimbursed for patients receiving services under this section shall not deny services to these patients.

(n) 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. 4. The amount deposited in the Local Health Capital Expenditure Account in the County Health Services Fund pursuant to Item 4260-491 of the Budget Act of 1984 shall be transferred to the County Health Facilities Financing Assistance Fund created by subdivision (a) of Section 15463 of the Government Code.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within

the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to make certain funds available for expenditure for county health services as soon as possible, it is necessary for this act to take effect immediately.

CHAPTER 1120

An act to amend Sections 9380, 9383, 15600, and 15602 of, and to amend, repeal, and add Section 15630 of, to add Section 9387 to, to repeal and add Section 15610 of, and to add Article 5 (commencing with Section 15640) to Chapter 11 of Part 3 of Division 9 of, the Welfare and Institutions Code, relating to dependent adult and elder abuse.

[Approved by Governor September 28, 1985 Filed with Secretary of State September 28, 1985.]

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

SECTION 1. Section 9380 of the Welfare and Institutions Code is amended to read:

9380. The Legislature finds and declares all of the following:

(a) Elders may be subjected to abuse, neglect, or abandonment, and that this state has a responsibility to protect these persons.

(b) Special attention should be directed to the needs and problems of the elderly, recognizing that these persons constitute a significant and identifiable segment of the population and that they are more subject to risks of abuse, neglect, and abandonment.

(c) Most elders who are at the greatest risk of abuse, neglect, and abandonment by their family or caretakers suffer physical impairments and other poor health that place them in a dependent and vulnerable position.

(d) Factors which contribute to abuse, neglect, and abandonment of elders are economic instability of the family, resentment of caretaker responsibilities, stress on the caretaker, and abuse by the caretaker of drugs or alcohol.

(e) This state shall foster and promote community services for the economic, social, and personal well-being of its citizens, in order to protect those persons described in this section.

(f) Uniform state guidelines which specify when county adult protective service agencies are to investigate allegations of abuse to elders and the appropriate role of local law enforcement do not currently exist and the implementation of these guidelines is necessary in order to ensure that a minimum level of protection is provided to elders in each county.

Therefore, it is the intent of the Legislature in enacting this chapter to provide, in those instances where a county has designated

an elder abuse reporting agency, that that agency shall receive referrals or complaints from public or private agencies, from any mandated reporter submitting reports pursuant to Section 9381, or from any other source having reasonable cause to know that the welfare of an elder is endangered, and shall take any actions as are considered necessary to protect the elder and correct the situation and ensure the individual's safety.

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 or health 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.

(k) "Adult protective services" means those preventive and remedial activities performed on behalf of elders who are unable to protect their own interests, harmed or threatened with harm, caused physical or mental injury due to the action or inaction of another person or their own action due to ignorance, illiteracy, incompetence, or poor health, lacking in adequate food, shelter, or clothing, exploited of their income and resources, or deprived of entitlement due them.

SEC. 2. Section 9383 of the Welfare and Institutions Code is amended to read:

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) When an elder protective agency receives a report of abuse, neglect or abandonment of an elder or dependent adult who resides in a community care facility, that elder protective agency shall report the incident to the licensing agency by telephone as soon as possible.

(c) 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.

(d) 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.

SEC. 3. Section 9387 is added to the Welfare and Institutions Code, to read:

9387. The department, in cooperation with representatives of county government, and in consultation with the State Department of Education, the State Department of Developmental Services, and the Department of Justice, shall establish minimum guidelines for determining when investigation of an allegation of abuse is warranted.

The State Department of Social Services shall report to the Joint Legislative Budget Committee by January 1, 1988, on the fiscal and programmatic impacts of these guidelines on county adult protective

service agencies.

SEC. 4. Section 15600 of the Welfare and Institutions Code is amended to read:

15600. (a) The Legislature recognizes that dependent adults may be subjected to abuse, neglect, or abandonment and that this state has a responsibility to protect such persons.

(b) The Legislature further recognizes that a significant number of these persons are elderly. The Legislature desires to direct special attention to the needs and problems of the elderly, recognizing that these persons constitute a significant and identifiable segment of the population and that they are more subject to risks of abuse, neglect, and abandonment.

(c) The Legislature further recognizes that a significant number of these persons are developmentally disabled. Mental and verbal limitations often leave them vulnerable to abuse and incapable of asking for help and protection.

(d) Most elders and dependent adults who are at the greatest risk of abuse, neglect, and abandonment by their family or caretakers suffer physical impairments and other poor health that place them in a dependent and vulnerable position.

(e) Factors which contribute to abuse, neglect, and abandonment of elders and dependent adults are economic instability of the family, resentment of caretaker responsibilities, stress on the caretaker, and abuse by the caretaker of drugs or alcohol.

(f) The Legislature declares that this state shall foster and promote community services for the economic, social, and personal well-being of its citizens in order to protect those persons described in this section.

(g) Uniform state guidelines which specify when county adult protective service agencies are to investigate allegations of abuse to elders and dependent adults and the appropriate role of local law enforcement do not currently exist and the implementation of these guidelines is necessary in order to ensure that a minimum level of protection is provided to elders and dependent adults in each county.

(h) Therefore, it is the intent of the Legislature in enacting this chapter to provide, in those instances where a county has designated an elder or dependent adult abuse reporting agency, that that agency shall receive referrals or complaints from public or private agencies, from any mandated reporter submitting reports pursuant to Section 9381, or from any other source having reasonable cause to know that the welfare of an elder or dependent adult is endangered, and shall take such actions as are considered necessary to protect the elder or dependent adult and correct the situation and ensure the individual's safety.

SEC. 5. Section 15602 of the Welfare and Institutions Code is amended to read:

15602. This chapter shall remain in effect only until January 1, 1990, and on that date is repealed unless a later enacted statute,

which is chaptered before that date, deletes or extends that date.

SEC. 6. Section 15610 of the Welfare and Institutions Code is repealed.

SEC. 7. Section 15610 is added to the Welfare and Institutions Code, to read:

15610. As used in this chapter:

(a) "Dependent adult" means any person residing in this state, between the ages of 18 and 64, who has physical or mental limitations which restrict his or her ability to carry out normal activities or to protect his or her rights including, but not limited to, persons who have physical or developmental disabilities or whose physical or mental abilities have diminished because of age.

(b) "Physical abuse" means any of the following:

(1) Battery, as defined in Section 242 of the Penal Code.

(2) Unreasonable physical constraint, or prolonged or continual deprivation of food or water.

(3) Sexual assault.

(c) "Sexual assault" means conduct in violation of one or more of the following sections:

(1) Sexual battery, as defined in Section 243.4 of the Penal Code.

(2) Rape, as defined in Section 261 of the Penal Code.

(3) Rape in concert, as defined in Section 264.1 of the Penal Code.

(4) Incest, as defined in Section 285 of the Penal Code.

(5) Sodomy, as defined in Section 286 of the Penal Code.

(6) Oral copulation, as defined in Section 288a of the Penal Code.

(7) Penetration of a genital or anal opening by a foreign object, as defined in Section 289 of the Penal Code.

(d) "Neglect" means the negligent 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 all of the following:

(1) Failure to assist in personal hygiene, or in the provision of food or clothing.

(2) Failure to provide medical care for physical and mental health needs. 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 from health and safety hazards.

(4) Failure to prevent malnutrition.

(e) "Abandonment" means the desertion or willful foresaking of a dependent adult by anyone having care or custody of that person under circumstances in which a reasonable person would continue to provide care and custody.

(f) "Fiduciary abuse" means a situation in which any person who has the care or custody of, or who stands in a position of trust to, a dependent adult, takes, secretes, or appropriates their money or property, to any use or purpose not in the due and lawful execution of his or her trust.

(g) "Abuse of a dependent adult" means physical abuse, sexual

abuse, neglect, intimidation, cruel punishment, fiduciary abuse, or other treatment with resulting physical harm or pain or mental suffering, or the deprivation by a care custodian of goods or services which are necessary to avoid physical harm or mental suffering.

(h) "Care custodian" means an administrator or an employee of any of the following public or private facilities:

(1) Health facility.

(2) Clinic.

(3) Home health agency.

(4) Educational institution.

(5) Sheltered workshop.

(6) Camp.

(7) Respite care facility.

(8) Residential care institution, including foster homes and group homes.

(9) Community care facility.

(10) Adult day care facility, including adult day health care facilities.

(11) Regional center for persons with developmental disabilities.

(12) Licensing worker or evaluator.

(13) Public assistance worker.

(14) Adult protective services agency.

(15) Patient's rights advocate.

(16) Nursing home ombudsman.

(17) Legal guardian or conservator.

(18) Skilled nursing facility.

(19) Intermediate care facility.

(20) Local law enforcement agency.

(21) Any other person who provides goods or services necessary to avoid physical harm or mental suffering and who performs duties.

(i) "Health practitioner" means a physician and surgeon, psychiatrist, psychologist, dentist, resident, intern, podiatrist, chiropractor, licensed nurse, dental hygienist, marriage, family, and child counselor, or any other person who is currently licensed under Division 2 (commencing with Section 500) of the Business and Professions Code, any emergency medical technician I or II, paramedic, a person certified pursuant to Division 2.5 (commencing with Section 1797) of the Health and Safety Code, a psychological assistant registered pursuant to Section 2913 of the Business and Professions Code, a marriage, family and child counselor trainee, as defined in subdivision (c) of Section 4980.03 of the Business and Professions Code, or an unlicensed marriage, family and child counselor intern registered under Section 4980.44 of the Business and Professions Code, state or county public health or social service employee who treats a dependent adult for any condition, a coroner, or a religious practitioner who diagnoses, examines or treats dependent adults.

(j) "Adult protective services agency" means a county welfare or social services department.

(k) "Adult protective services" means those preventive and remedial activities performed on behalf of dependent adults who are unable to protect their own interests; harmed or threatened with harm; caused physical or mental injury due to the action or inaction of another person or their own action due to ignorance, illiteracy, incompetence, mental limitation or poor health; lacking in adequate food, shelter, or clothing; exploited of their income and resources; or deprived of entitlement due them.

(*l*) "Goods and services which are necessary to avoid physical harm or mental suffering" include, but are not limited to, all of the following:

(1) The provision of medical care for physical and mental health needs.

(2) Assistance in personal hygiene.

(3) Possessing adequate clothing.

(4) Adequately heated and ventilated shelter.

(5) Protection from health and safety hazards.

(6) Protection from malnutrition, under those circumstances where the results include, but are not limited to, malnutrition and deprivation of necessities or physical punishment.

(7) Transportation and assistance necessary to secure any of the needs set forth in paragraphs (1) to (6) above.

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.

(m) "Investigation" means that activity necessary to determine the validity of a report of elder or dependent adult abuse, neglect, or abandonment.

(n) "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.

(o) "Developmentally disabled person" means a person with a developmental disability specified by or as described in subdivision (a) of Section 4512.

(p) "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.

(q) "Patient's rights advocate" means a person who has no direct or indirect clinical or administrative responsibility for the patient, and who shall be responsible for ensuring that laws, regulations, and policies on the rights of the patient are observed.

(r) "Local law enforcement agency" means a city police or county sheriff's department, or a county probation department.

SEC. 8. Section 15630 of the Welfare and Institutions Code is amended to read:

15630. Any person witnessing or suspecting that a dependent adult is being or has been subject to abuse may report suspected cases to the county adult protective services agency.

Any person reporting under this article is immune from civil or criminal liability due to, or arising out of failure to file a report. Any person who reports under this section is also immune from civil or criminal liability, unless such person acted in bad faith or with a malicious purpose.

No employee shall be discharged, suspended, disciplined, or harassed for making a report pursuant to this article.

When a county adult protective services agency receives a report of abuse, neglect or abandonment of an elder or dependent adult who resides in a community care facility, that county adult protective services agency shall report the incident to the licensing agency by telephone as soon as possible.

SEC. 9. Section 15630 of the Welfare and Institutions Code is repealed.

SEC. 10. Section 15630 is added to the Welfare and Institutions Code, to read:

15630. (a) Any dependent adult care custodian, health practitioner, or employee of a county adult protective services agency or a local law enforcement agency, who in his or her professional capacity or within the scope of his or her employment, either has actual knowledge that a dependent adult has been the victim of physical abuse, or observes a physical injury to a dependent adult under circumstances that are consistent with physical abuse, where the dependent adult's statements, or in the case of persons who have developmental disabilities, their statements or other corroborating evidence, indicate that abuse has occurred, shall report the known or suspected instance of physical abuse to the county adult protective services agency, or a local law enforcement agency immediately or as soon as possible by telephone, and shall prepare and send a written report thereof within 36 hours.

(b) Any care custodian, health practitioner, or employee of an adult protective services agency or local law enforcement agency who has knowledge of or reasonably suspects that dependent adult abuse has been inflicted upon a dependent adult or that his or her emotional well-being is endangered in any other way, may report such known or suspected instance of abuse to an adult protective services agency or local law enforcement agency.

(c) When two or more persons who are required to report are present and jointly have knowledge of a known or suspected instance of abuse of a dependent adult, 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.

(d) The reporting duties under this section are individual, and, no

supervisor or administrator may impede or inhibit the reporting duties and no person making such a report shall be subject to any sanction for making the report. However, internal procedures to facilitate reporting and apprise supervisors and administrators of reports may be established, provided they are not inconsistent with the provisions of this chapter.

(e) An adult protective services agency shall immediately or as soon as practically possible report by telephone to the law enforcement agency having jurisdiction over the case and to any public agency given responsibility for investigation in that jurisdiction of cases of dependent adult abuse, every known or suspected instance of dependent adult abuse. A county probation or welfare department shall also send a written report thereof within 36 hours of receiving the information concerning the incident to each agency to which it is required to make a telephone report under this subdivision.

A law enforcement agency shall immediately or as soon as practically possible report by telephone to the county welfare department and the agency given responsibility for the investigation of cases of dependent adult abuse every known or suspected instance of abuse of a dependent adult. A law enforcement agency shall also send a written report thereof within 36 hours of receiving the information concerning the incident to any agency to which it is required to make a telephone report under this subdivision.

(f) When a county adult protective services agency receives a report of abuse, neglect or abandonment of an elder or dependent adult who resides in a community care facility, that county adult protective services agency shall report the incident to the licensing agency by telephone as soon as possible.

SEC. 11. Article 5 (commencing with Section 15640) is added to Chapter 11 of Part 3 of Division 9 of the Welfare and Institutions Code, to read:

Article 5. Investigation of Reports of Elder and Dependent Adult Abuse and Neglect

15640. The department, in cooperation with representatives of county government, and in consultation with the State Department of Education, the State Department of Developmental Services, and the Department of Justice, shall establish minimum guidelines for determining when an investigation of an allegation of abuse is warranted. The department shall report to the Joint Legislative Budget Committee by January 1, 1988, on the fiscal and programmatic impact of these guidelines on county adult protective service agencies.

The Department of Justice, in consultation with the department, the State Department of Education, the State Department of Developmental Services and representatives of local law enforcement and county adult protective service agencies, shall

develop uniform guidelines for local law enforcement assistance with investigations of allegations of abuse to elders and dependent adults conducted by county adult protective service agencies. Consistent with these guidelines, county adult protective service agencies may seek local law enforcement assistance with investigations of allegations of abuse to elders and dependent adults.

The Department of Justice shall report to the Joint Legislative Budget Committee by January 1, 1988, on the fiscal and programmatic impacts of these guidelines on local law enforcement agencies.

SEC. 12. Reimbursement to local agencies and school districts for costs mandated by the state pursuant to this act shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code and, if the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), shall be made from the State Mandates Claims Fund.

SEC. 13. (a) Section 8 of this act shall only become operative if AB 238 is not enacted during the 1985 portion of the 1985–86 Regular Session.

(b) Sections 9 and 10 of this act shall only become operative if AB 238 is enacted during the 1985 portion of the 1985–86 Regular Session.

CHAPTER 1121

An act to amend Sections 4514 and 5328 of, and to add Section 5010 to, the Welfare and Institutions Code, relating to patient records.

[Approved by Governor September 28, 1985. Filed with Secretary of State September 28, 1985]

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

SECTION 1. Section 4514 of the Welfare and Institutions Code is amended to read:

4514. All information and records obtained in the course of providing intake, assessment, and services under Division 4.1 (commencing with Section 4400), Division 4.5 (commencing with Section 4500), Division 6 (commencing with Section 6000), or Division 7 (commencing with Section 7100) to persons with developmental disabilities shall be confidential. Information and records obtained in the course of providing similar services to either voluntary or involuntary recipients prior to 1969 shall also be confidential. Information and records shall be disclosed only in any of the following cases:

(a) In communications between qualified professional persons in the provision of intake, assessment, and services or appropriate referrals, or in the course of conservatorship proceedings. The

consent of the person with a developmental disability, or his or her guardian or conservator shall be obtained before information or records may be disclosed by a professional employed by a facility to a professional not employed by the facility who does not have the medical responsibility for the care of a person with a developmental disability.

(b) When the person with a developmental disability, with the approval of the physician, licensed psychologist, or social worker with a master's degree in social work, who is in charge of the person, designates individuals to whom information or records may be released, except that nothing in this article shall be construed to compel a physician, psychologist, social worker, nurse, attorney, or other professional to reveal information which has been given to him or her in confidence by a family member of the person.

(c) To the extent necessary for a claim, or for a claim to be made on behalf of a person with a developmental disability for aid, insurance, or medical assistance to which he or she may be entitled.

(d) If the person with a developmental disability is a minor, ward, or conservatee, and his or her parent, guardian, or conservator designates, in writing, persons to whom records or information may be disclosed, except that nothing in this article shall be construed to compel a physician, psychologist, social worker, nurse, attorney, or other professional to reveal information which has been given to him or her in confidence by a family member of the person.

(e) For research, provided that the Director of Developmental Services designates by regulation rules for the conduct of research and requires the research to be first reviewed by the appropriate institutional review board or boards. Such rules shall include, but need not be limited to, the requirement that all researchers shall sign an oath of confidentiality as follows:

_____

Date

As a condition of doing research concerning persons with developmental disabilities who have received services from _____ (fill in the facility, agency or person), I, _____, agree to obtain the prior informed consent of such persons who have received services to the maximum degree possible as determined by the appropriate institutional review board or boards for protection of human subjects reviewing my research, or such person's parent, guardian, or conservator, and I further agree not to divulge any information obtained in the course of such research to unauthorized persons, and not to publish or otherwise make public any information regarding persons who have received services such that the person who received services is identifiable.

I recognize that the unauthorized release of confidential information may make me subject to a civil action under provisions of the Welfare and Institutions Code.

_____

Signed

(f) To the courts, as necessary to the administration of justice.

(g) To governmental law enforcement agencies as needed for the protection of federal and state elective constitutional officers and their families.

(h) To the Senate Rules Committee or the Assembly Rules Committee for the purposes of legislative investigation authorized by such committee.

(i) If the person with a developmental disability who applies for life or disability insurance designates in writing the insurer to which records or information may be disclosed.

(j) To the attorney for the person with a developmental disability in any and all proceedings upon presentation of a release of information signed by the person, except that when the person is unable to sign such release, the staff of the facility, upon satisfying itself of the identity of the attorney, and of the fact that the attorney does represent the interests of the person, may release all information and records relating to the person except that nothing in this article shall be construed to compel a physician, psychologist, social worker, nurse, attorney, or other professional to reveal information which has been given to him or her in confidence by a family member of the person.

(k) Upon written agreement by a person with a developmental disability previously confined in or otherwise treated by a facility, the professional in charge of the facility or his or her designee may release any information, except information which has been given in confidence by members of the family of the person with developmental disabilities, requested by a probation officer charged with the evaluation of the person after his or her conviction of a crime if the professional person in charge of the facility determines that such information is relevant to the evaluation. Such agreement shall only be operative until sentence is passed on the crime of which the person was convicted. The confidential information released pursuant to this subdivision shall be transmitted to the court separately from the probation report and shall not be placed in the probation report. The confidential information shall remain confidential except for purposes of sentencing. After sentencing, the confidential information shall be sealed.

(*l*) Between persons who are trained and qualified to serve on "multidisciplinary personnel" teams pursuant to subdivision (d) of Section 18951. The information and records sought to be disclosed shall be relevant to the prevention, identification, management, or treatment of an abused child and his or her parents pursuant to Chapter 11 (commencing with Section 18950) of Part 6 of Division 9.

(m) When a person with a developmental disability dies from any

cause, natural or otherwise, while hospitalized in a state hospital for the developmentally disabled the State Department of Developmental Services, the physician in charge of the patient, or the professional in charge of the facility or his or her designee, shall release information and records to the coroner. The State Department of Developmental Services, the physician in charge of the state hospital resident, or the professional in charge of the facility or his or her designee, shall not release any notes, summaries, transcripts, tapes, or records of conversations between the resident and health professional personnel of the hospital relating to the personal life of the resident which is not related to the diagnosis and treatment of the resident's physical condition. Any information released to the coroner pursuant to this section shall remain confidential and shall be sealed and shall not be made part of the public record.

(n) To authorized licensing personnel who are employed by, or who are authorized representatives of, the State Department of Health Services, and who are licensed or registered health professionals, as necessary to the performance of their duties to inspect, license, and investigate health facilities and to ensure that the standards of care and services provided in such facilities are adequate and appropriate and to ascertain compliance with the rules and regulations to which the facility is subject. The confidential information shall remain confidential except for purposes of inspection, licensing, or investigation pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code, or a criminal, civil, or adminstrative proceeding in relation thereto. The confidential information may be used by the State Department of Health Services in a criminal, civil, or administrative proceeding. The confidential information shall be available only to the judge or hearing officer and to the parties to the case. Names which are confidential shall be listed in attachments separate to the general pleadings. The confidential information shall be sealed after the conclusion of the criminal, civil, or administrative hearings, and shall not subsequently be released except in accordance with this subdivision. If the confidential information does not result in a criminal, civil, or administrative proceeding, it shall be sealed after the State Department of Health Services decides that no further action will be taken in the matter of suspected licensing violations. Except as otherwise provided in this subdivision, confidential information in the possession of the State Department of Health Services shall not contain the name of the person with a developmental disability.

(o) To any board which licenses and certifies professionals in the fields of mental health and developmental disabilities pursuant to state law, when the Director of Developmental Services has reasonable cause to believe that there has occurred a violation of any provision of law subject to the jurisdiction of such board and the records are relevant to such violation. Such information shall be

sealed after a decision is reached in the matter of the suspected violation, and shall not subsequently be released except in accordance with this subdivision. Confidential information in the possession of the board shall not contain the name of the person with a developmental disability.

(p) To governmental law enforcement agencies by the physician in charge of the person with a developmental disability, or the professional in charge of the facility or his or her designee, when he or she has probable cause to believe that a person with a developmental disability while hospitalized has committed, or has been the victim of, murder, manslaughter, mayhem, kidnapping, robbery, assault with the intent to commit a felony, arson, extortion, rape, forcible sodomy, forcible oral copulation, assault or battery, or unlawful possession of a weapon, as provided in Section 12020 of the Penal Code.

This subdivision shall be limited solely to information directly relating to the factual circumstances of the commission of the enumerated offenses and shall not include any information relating to the mental state of the patient or the circumstances of his or her voluntary or involuntary admission, commitment, or treatment.

This subdivision shall not be construed as an exception to, or in any other way affecting, the provisions of Article 7 (commencing with Section 1010) of Chapter 4 of Division 8 of the Evidence Code.

(q) To the Youth Authority and Adult Correctional Agency or any component thereof, as necessary to the administration of justice.

(r) To the agency established in this state to fulfill the requirements and assurances of Section 142 of the federal Developmental Disabilities Act of 1984 for a system to protect and advocate the rights of persons with developmental disabilities, as defined in Section 102(7) of the federal act. The agency shall have access to the records of a person with developmental disabilities who resides in a facility for persons with developmental disabilities when both of the following conditions apply:

(1) The agency has received a complaint from, or on behalf of, the person and the person consents to the disclosure to the extent of his or her capabilities.

(2) The person does not have a parent, guardian, or conservator, or the state or the designee of the state is the person's guardian or conservator.

SEC. 1.5. Section 4514 of the Welfare and Institutions Code is amended to read:

4514. All information and records obtained in the course of providing intake, assessment, and services under Division 4.1 (commencing with Section 4400), Division 4.5 (commencing with Section 4500), Division 6 (commencing with Section 6000), or Division 7 (commencing with Section 7100) to persons with developmental disabilities shall be confidential. Information and records obtained in the course of providing similar services to either voluntary or involuntary recipients prior to 1969 shall also be

confidential. Information and records shall be disclosed only in any of the following cases:

(a) In communications between qualified professional persons in the provision of intake, assessment, and services or appropriate referrals, or in the course of conservatorship proceedings. The consent of the person with a developmental disability, or his or her guardian or conservator shall be obtained before information or records may be disclosed by a professional employed by a facility to a professional not employed by the facility who does not have the medical responsibility for the care of a person with a developmental disability.

(b) When the person with a developmental disability, with the approval of the physician, licensed psychologist, or social worker with a master's degree in social work, who is in charge of the person, designates individuals to whom information or records may be released, except that nothing in this article shall be construed to compel a physician, psychologist, social worker, nurse, attorney, or other professional to reveal information which has been given to him or her in confidence by a family member of the person.

(c) To the extent necessary for a claim, or for a claim to be made on behalf of a person with a developmental disability for aid, insurance, or medical assistance to which he or she may be entitled.

(d) If the person with a developmental disability is a minor, ward, or conservatee, and his or her parent, guardian, or conservator designates, in writing, persons to whom records or information may be disclosed, except that nothing in this article shall be construed to compel a physician, psychologist, social worker, nurse, attorney, or other professional to reveal information which has been given to him or her in confidence by a family member of the person.

(e) For research, provided that the Director of Developmental Services designates by regulation rules for the conduct of research and requires the research to be first reviewed by the appropriate institutional review board or boards. Such rules shall include, but need not be limited to, the requirement that all researchers shall sign an oath of confidentiality as follows:

_____

Date

As a condition of doing research concerning persons with developmental disabilities who have received services from _____ (fill in the facility, agency or person), I, _____, agree to obtain the prior informed consent of such persons who have received services to the maximum degree possible as determined by the appropriate institutional review board or boards for protection of human subjects reviewing my research, or such person's parent, guardian, or conservator, and I further agree not to divulge any information obtained in the course of such research to unauthorized persons, and not to publish or otherwise make public any information regarding

persons who have received services such that the person who received services is identifiable.

I recognize that the unauthorized release of confidential information may make me subject to a civil action under provisions of the Welfare and Institutions Code.

_____

Signed

(f) To the courts, as necessary to the administration of justice.

(g) To governmental law enforcement agencies as needed for the protection of federal and state elective constitutional officers and their families.

(h) To the Senate Rules Committee or the Assembly Rules Committee for the purposes of legislative investigation authorized by such committee.

(i) If the person with a developmental disability who applies for life or disability insurance designates in writing the insurer to which records or information may be disclosed.

(j) To the attorney for the person with a developmental disability in any and all proceedings upon presentation of a release of information signed by the person, except that when the person is unable to sign such release, the staff of the facility, upon satisfying itself of the identity of the attorney, and of the fact that the attorney does represent the interests of the person, may release all information and records relating to the person except that nothing in this article shall be construed to compel a physician, psychologist, social worker, nurse, attorney, or other professional to reveal information which has been given to him or her in confidence by a family member of the person.

(k) Upon written agreement by a person with a developmental disability previously confined in or otherwise treated by a facility, the professional in charge of the facility or his or her designee may release any information, except information which has been given in confidence by members of the family of the person with developmental disabilities, requested by a probation officer charged with the evaluation of the person after his or her conviction of a crime if the professional person in charge of the facility determines that such information is relevant to the evaluation. Such agreement shall only be operative until sentence is passed on the crime of which the person was convicted. The confidential information released pursuant to this subdivision shall be transmitted to the court separately from the probation report and shall not be placed in the probation report. The confidential information shall remain confidential except for purposes of sentencing. After sentencing, the confidential information shall be sealed.

(l) Between persons who are trained and qualified to serve on "multidisciplinary personnel" teams pursuant to subdivision (d) of Section 18951. The information and records sought to be disclosed

shall be relevant to the prevention, identification, management, or treatment of an abused child and his or her parents pursuant to Chapter 11 (commencing with Section 18950) of Part 6 of Division 9.

(m) When a person with a developmental disability dies from any cause, natural or otherwise, while hospitalized in a state hospital for the developmentally disabled the State Department of Developmental Services, the physician in charge of the patient, or the professional in charge of the facility or his or her designee, shall release information and records to the coroner. The State Department of Developmental Services, the physician in charge of the state hospital resident, or the professional in charge of the facility or his or her designee, shall not release any notes, summaries, transcripts, tapes, or records of conversations between the resident and health professional personnel of the hospital relating to the personal life of the resident which is not related to the diagnosis and treatment of the resident's physical condition. Any information released to the coroner pursuant to this section shall remain confidential and shall be sealed and shall not be made part of the public record.

(n) To authorized licensing personnel who are employed by, or who are authorized representatives of, the State Department of Health Services, and who are licensed or registered health professionals, and to authorized legal staff or special investigators who are peace officers who are employed by, or who are authorized representives of, the State Department of Social Services, as necessary to the performance of their duties to inspect, license, and investigate health facilities and community care facilities, and to ensure that the standards of care and services provided in such facilities are adequate and appropriate and to ascertain compliance with the rules and regulations to which the facility is subject. The confidential information shall remain confidential except for purposes of inspection, licensing, or investigation pursuant to Chapter 2 (commencing with Section 1250) of, and Chapter 3 (commencing with Section 1500) of, Division 2 of the Health and Safety Code, or a criminal, civil, or adminstrative proceeding in relation thereto. The confidential information may be used by the State Department of Health Services or the State Department of Social Services in a criminal, civil, or administrative proceeding. The confidential information shall be available only to the judge or hearing officer and to the parties to the case. Names which are confidential shall be listed in attachments separate to the general pleadings. The confidential information shall be sealed after the conclusion of the criminal, civil, or administrative hearings, and shall not subsequently be released except in accordance with this subdivision. If the confidential information does not result in a criminal, civil, or administrative proceeding, it shall be sealed after the State Department of Health Services or the State Department of Social Services decides that no further action will be taken in the

matter of suspected licensing violations. Except as otherwise provided in this subdivision, confidential information in the possession of the State Department of Health Services or the State Department of Social Services shall not contain the name of the person with a developmental disability.

(o) To any board which licenses and certifies professionals in the fields of mental health and developmental disabilities pursuant to state law, when the Director of Developmental Services has reasonable cause to believe that there has occurred a violation of any provision of law subject to the jurisdiction of such board and the records are relevant to such violation. Such information shall be sealed after a decision is reached in the matter of the suspected violation, and shall not subsequently be released except in accordance with this subdivision. Confidential information in the possession of the board shall not contain the name of the person with a developmental disability.

(p) To governmental law enforcement agencies by the physician in charge of the person with a developmental disability, or the professional in charge of the facility or his or her designee, when he or she has probable cause to believe that a person with a developmental disability while hospitalized has committed, or has been the victim of, murder, manslaughter, mayhem, kidnapping, robbery, assault with the intent to commit a felony, arson, extortion, rape, forcible sodomy, forcible oral copulation, assault or battery, or unlawful possession of a weapon, as provided in Section 12020 of the Penal Code.

This subdivision shall be limited solely to information directly relating to the factual circumstances of the commission of the enumerated offenses and shall not include any information relating to the mental state of the patient or the circumstances of his or her voluntary or involuntary admission, commitment, or treatment.

This subdivision shall not be construed as an exception to, or in any other way affecting, the provisions of Article 7 (commencing with Section 1010) of Chapter 4 of Division 8 of the Evidence Code.

(q) To the Youth Authority and Adult Correctional Agency or any component thereof, as necessary to the administration of justice.

(r) To the agency established in this state to fulfill the requirements and assurances of Section 142 of the federal Developmental Disabilities Act of 1984 for a system to protect and advocate the rights of persons with developmental disabilities, as defined in Section 102(7) of the federal act. The agency shall have access to the records of a person with developmental disabilities who resides in a facility for persons with developmental disabilities when both of the following conditions apply:

(1) The agency has received a complaint from, or on behalf of, the person and the person consents to the disclosure to the extent of his or her capabilities.

(2) The person does not have a parent, guardian, or conservator, or the state or the designee of the state is the person's guardian or

conservator.

SEC. 2. Section 5010 is added to the Welfare and Institutions Code, to read:

5010. The agency established in this state to fulfill the requirements and assurances of Section 142 of the federal Developmental Disabilities Act of 1984 for a system to protect and advocate the rights of persons with developmental disabilities, as that term is defined by Section 102(7) of the federal act, shall have access to the records of a person with developmental disabilities who resides in a facility for persons with developmental disabilities when both of the following conditions apply:

(1) The agency has received a complaint from or on behalf of the person and the person consents to the disclosure of the records to the extent of his or her capabilities.

(2) The person does not have a parent, guardian or conservator, or the state or the designee of the state is the person's guardian or conservator.

SEC. 3. 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.

(r) To the agency established in this state to fulfill the requirements and assurances of Section 142 of the federal Developmental Disabilities Act of 1984 for a system to protect and advocate the rights of persons with developmental disabilities, as defined in Section 102(7) of the federal act. The agency shall have access to the records of a person with developmental disabilities who resides in a facility for persons with developmental disabilities when both of the following conditions apply:

(1) The agency has received a complaint from, or on behalf of, the person and the person consents to the disclosure to the extent of his or her capabilities.

(2) The person does not have a parent, guardian, or conservator, or the state or the designee of the state is the person's guardian or conservator.

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. 4. 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.

(r) To the agency established in this state to fulfill the requirements and assurances of Section 142 of the federal Developmental Disabilities Act of 1984 for a system to protect and advocate the rights of persons with developmental disabilities, as defined in Section 102(7) of the federal act. The agency shall have access to the records of a person with developmental disabilities who resides in a facility for persons with developmental disabilities when both of the following conditions apply:

(1) The agency has received a complaint from, or on behalf of, the person and the person consents to the disclosure to the extent of his or her capabilities.

(2) The person does not have a parent, guardian, or conservator, or the state or the designee of the state is the person's guardian or conservator.

(s) When the patient, in the opinion of his or her psychotherapist, presents a serious danger of violence to a reasonably foreseeable victim or victims, then any of the information or records specified in this section may be released to that person or persons and to law enforcement agencies as the psychotherapist determines is needed for the protection of that person or persons. For purposes of this subdivision, "psychotherapist" means anyone so defined within Section 1010 of the Evidence Code.

This provision shall not be construed to allow any civil or criminal liability against a psychotherapist or any law enforcement person or agency.

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. 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.

(r) To the agency established in this state to fulfill the requirements and assurances of Section 142 of the federal Developmental Disabilities Act of 1984 for a system to protect and advocate the rights of persons with developmental disabilities, as defined in Section 102(7) of the federal act. The agency shall have access to the records of a person with developmental disabilities who resides in a facility for persons with developmental disabilities when both of the following conditions apply:

(1) The agency has received a complaint from, or on behalf of, the person and the person consents to the disclosure to the extent of his or her capabilities.

(2) The person does not have a parent, guardian, or conservator, or the state or the designee of the state is the person's guardian or conservator.

(s) To persons serving on an interagency case management council established in compliance with Section 5606.6 to the extent necessary to perform its duties. This council shall attempt to obtain the consent of the client. If this consent is not given by the client, the council shall justify in the client's chart why these records are necessary for the work of the council.

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. 6. 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.

(r) To the agency established in this state to fulfill the requirements and assurances of Section 142 of the federal Developmental Disabilities Act of 1984 for a system to protect and advocate the rights of persons with developmental disabilities, as defined in Section 102(7) of the federal act. The agency shall have access to the records of a person with developmental disabilities who resides in a facility for persons with developmental disabilities when both of the following conditions apply:

(1) The agency has received a complaint from, or on behalf of, the person and the person consents to the disclosure to the extent of his or her capabilities.

(2) The person does not have a parent, guardian, or conservator, or the state or the designee of the state is the person's guardian or conservator.

(s) When the patient, in the opinion of his or her psychotherapist, presents a serious danger of violence to a reasonably foreseeable

victim or victims, then any of the information or records specified in this section may be released to that person or persons and to law enforcement agencies as the psychotherapist determines is needed for the protection of that person or persons. For purposes of this subdivision, "psychotherapist" means anyone so defined within Section 1010 of the Evidence Code.

This provision shall not be construed to allow any civil or criminal liability against a psychotherapist or any law enforcement person or agency.

(t) To persons serving on an interagency case management council established in compliance with Section 5606.6 to the extent necessary to perform its duties. This council shall attempt to obtain the consent of the client. If this consent is not given by the client, the council shall justify in the client's chart why these records are necessary for the work of the council.

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. 7. (a) Section 4 of this bill incorporates amendments to Section 5328 of the Welfare and Institutions Code proposed by both this bill and SB 1034. It shall only become operative if (1) both bills are enacted and become effective January 1, 1986, (2) each bill amends Section 5328 of the Welfare and Institutions Code, and (3) AB 1750 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after SB 1034, in which case Sections 3, 5 and 6 of this bill shall not become operative.

(b) Section 5 of this bill incorporates amendments to Section 5328 of the Welfare and Institutions Code proposed by both this bill and AB 1750. It shall only become operative if (1) both bills are enacted and become effective January 1, 1986, (2) each bill amends Section 5328 of the Welfare and Institutions Code, (3) SB 1034 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 1750 in which case Sections 3, 4 and 6 of this bill shall not become operative.

(c) Section 6 of this bill incorporates amendments to Section 5328 of the Welfare and Institutions Code proposed by this bill, SB 1034, and AB 1750. It shall only become operative if (1) all three bills are enacted and become effective January 1, 1986, (2) all three bills amend Section 5328 of the Welfare and Institutions Code, (3) this bill is enacted after SB 1034 and AB 1750, in which case Sections 3, 4 and 5 of this bill shall not become operative.

SEC. 8. Section 1.5 of this bill incorporates amendments to Section 4514 of the Welfare and Institutions Code proposed by both this bill and AB 1751. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1986, (2) each bill amends Section 4514 of the Welfare and Institutions Code, and (3) this bill is enacted after AB 1751, in which case Section 1 of this bill shall not become operative.

CHAPTER 1122

An act to add Chapter 2.5 (commencing with Section 273.8) to Title 9 of Part 1 of the Penal Code, relating to crimes.

[Approved by Governor September 28, 1985 Filed with Secretary of State September 28, 1985]

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

SECTION 1. Chapter 2.5 (commencing with Section 273.8) is added to Title 9 of Part 1 of the Penal Code, to read:

CHAPTER 2.5. SPOUSAL ABUSERS

273.8. The Legislature hereby finds that spousal abusers present a clear and present danger to the mental and physical well-being of the citizens of the State of California. The Legislature further finds that the concept of vertical prosecution, in which a specially trained deputy district attorney or prosecution unit is assigned to a case from its filing to its completion, is a proven way of demonstrably increasing the likelihood of convicting spousal abusers and ensuring appropriate sentences for those offenders. In enacting this chapter, the Legislature intends to support increased efforts by district attorneys' offices to prosecute spousal abusers through organizational and operational techniques that have already proven their effectiveness in selected counties in this and other states .

273.81. (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 Spousal Abuser 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 that 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 and 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 spousal abuser prosecution units are established or are proposed to be established in substantial compliance with the policies and criteria set forth in this chapter.

(c) The allocation and award of funds shall be made upon application executed by the county's district attorney or by the city's

attorney and approved by the county board of supervisors or by the city council. Funds disbursed under this chapter shall not supplant local funds that would, in the absence of the California Spousal Abuser Prosecution Program, be made available to support the prosecution of spousal abuser 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) Local government recipients shall provide 20 percent matching funds for every grant awarded under this program.

273.82. spousal abuser prosecution units receiving funds under this chapter shall concentrate enhanced prosecution efforts and resources upon individuals identified under selection criteria set forth in Section 273.83. Enhanced prosecution efforts and resources shall include, but not be limited to, all of the following:

(a) (1) Vertical prosecutorial representation, whereby the prosecutor who, or prosecution unit which, makes the initial filing or appearance in a case performs all subsequent court appearances on that particular case through its conclusion, including the sentencing phase.

(2) Vertical counselor representation, whereby a trained domestic violence counselor maintains liaison from initial court appearances through the case's conclusion, including the sentencing phase.

(b) The assignment of highly qualified investigators and prosecutors to spousal abuser cases. "Highly qualified" for the purposes of this chapter means: (1) individuals with one year of experience in the investigation and prosecution of felonies or specifically the felonies listed in subdivision (a) of Section 9991 or 273.13, (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 spousal abuser cases.

(d) Coordination with local rape victim counseling centers, spousal abuse services programs, and victim witness assistance programs. That 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, spousal abuse victim programs, and victim witness assistance programs.

273.83. (a) An individual shall be the subject of a spousal abuser prosecution effort who is under arrest for any act or omission described in subdivisions (a) and (b) of Section 13700.

(b) In applying the spousal abuser selection criteria set forth in subdivision (a), 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 273.85, the district attorney shall consider the number and seriousness of the offenses currently charged against the defendant.

273.84. Subject to the provisions of Chapter 2.6 (commencing with Section 1000.6) of Title 6 of Part 2, each district attorney's office establishing a spousal abuser prosecution unit and receiving state support under this chapter shall adopt and pursue the following policies for spousal abuser cases:

(a) All reasonable prosecutorial efforts will be made to resist the pretrial release of a charged defendant meeting spousal abuser 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 spousal abuser. 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 spousal abuser criteria.

273.85. (a) The selection criteria set forth in Section 273.84 shall be adhered to for each spousal abuser 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 spousal abuser 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 spousal abuser cases referred to the district attorney's office for possible filing.

(2) The number of spousal abuser cases filed for felony prosecution.

(3) The number of spousal abuser cases taken to trial.

(4) The number of spousal abuser cases tried which resulted in conviction.

273.86. The characterization of a defendant as a "spousal abuser" as defined by this chapter shall not be communicated to the trier of fact.

273.87. The Office of Criminal Justice Planning is encouraged to utilize Federal Victims of Crimes Act (VOCA) funds or any other federal funds which may become available in order to implement the provisions of this chapter.

CHAPTER 1123

An act to add Section 42009 to the Vehicle Code, relating to courts.

[Approved by Governor September 28, 1985. Filed with Secretary of State September 28, 1985]

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

SECTION 1. Section 42009 is added to the Vehicle Code, to read:

42009. (a) In addition to the fees authorized or required by other provisions of law, the court shall order payment of a fee from every person ordered, in lieu of adjudicating a traffic offense, to attend a school pursuant to Section 42005 or any court-supervised program of driving instruction.

(b) The amount of the fee shall be ten dollars ($10).

(c) The revenues from the fees shall be deposited by the clerk in accordance with Section 68084 of the Government Code. The clerk shall report to the county auditor which agency issued the notice to appear for which the fee was collected and the amounts thereof.

(d) After deducting one dollar and ten cents ($1.10) per citation for the administrative costs to the county for collection and processing of the fee, the county shall transfer the revenues to the issuing local governmental entity monthly.

(e) Revenues collected under this section shall be deposited in the general fund of the local governmental entity which issues the notice to appear.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution 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 1124

An act to add Section 24100.2 to the Health and Safety Code, relating to swimming facilities.

[Approved by Governor September 28, 1985 Filed with Secretary of State September 28, 1985]

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

SECTION 1. Section 24100.2 is added to the Health and Safety Code, to read:

24100.2. (a) The construction standards as set forth in this article and the rules and regulations adopted pursuant thereto, shall not apply to any artificially constructed swimming facility in excess of

20,000 square feet of surface area, including, but not limited to, a manmade lake or swimming lagoon with sand beaches.

(b) The requirements of this article and rules and regulations adopted pursuant thereto, pertaining to the operation, maintenance, and use of a public swimming pool, including the quality and purity of the water, lifesaving and other measures to ensure the safety of bathers, and measures to ensure personal cleanliness of bathers shall apply to the swimming facilities described in subdivision (a).

CHAPTER 1125

An act to amend Section 977.2 of the Penal Code, relating to arraignments.

[Approved by Governor September 28, 1985 Filed with Secretary of State September 28, 1985]

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

SECTION 1. Section 977.2 of the Penal Code is amended to read:

977.2. (a) (1) Notwithstanding Section 977, the Board of Supervisors of Contra Costa, Los Angeles, Riverside, San Diego, or Shasta Counties, or any of them, with the approval of the presiding judge, the district attorney, and the public defender, may establish a pilot project. The project shall be developed in close consultation between the presiding judge, the district attorney, the public defender, and the sheriff, and shall not exceed four years in duration.

(2) The Board of Supervisors of San Bernardino County, with the approval of the presiding judge of the court, the supervising judge of any division of the court in which the project is to be conducted, the district attorney and the public defender may establish a pilot project. The project shall be developed in close consultation between the presiding judge, the supervising judge, the district attorney, the public defender, and the sheriff, and shall not exceed four years in duration.

(b) The project shall permit the initial arraignment in municipal or superior court of defendants held in any state, county, or local penal facility within the county on felony charges, except for those defendants who were indicted by a grand jury, to be conducted by two-way electronic audio video communication between the defendant and the courtroom in lieu of the physical presence of the defendant in the courtroom. The defendant may be accompanied by his or her attorney, and may enter a plea, during such an arraignment. The defendant shall have the right to make his or her plea while physically present in the courtroom if he or she so requests.

(c) Each county conducting a pilot project pursuant to this section shall report annually to the Legislature any data, including costs,

benefits, and problems incurred, as shall be specified by the Judicial Council.

(d) Notwithstanding any other provision of this section, a judge may order a defendant's personal appearance in court for arraignment, and shall not pursuant to this section accept a plea of guilty or no contest from a defendant not physically in the courtroom.

SEC. 2. Section 977.2 of the Penal Code is amended to read:

977.2. (a) (1) Notwithstanding Section 977, the Board of Supervisors of Contra Costa, Los Angeles, Orange, Riverside, San Diego, Santa Clara, or Shasta Counties, or any of them, with the approval of the presiding judge, the district attorney, and the public defender, may establish a pilot project. The project shall be developed in close consultation between the presiding judge, the district attorney, the public defender, and the sheriff, and shall not exceed four years in duration.

(2) The Board of Supervisors of San Bernardino County, with the approval of the presiding judge of the court, the supervising judge of any division of the court in which the project is to be conducted, the district attorney and the public defender may establish a pilot project. The project shall be developed in close consultation between the presiding judge, the supervising judge, the district attorney, the public defender, and the sheriff, and shall not exceed four years in duration.

(b) The project shall permit the initial arraignment in municipal or superior court of defendants held in any state, county, or local penal facility within the county on felony charges, except for those defendants who were indicted by a grand jury, to be conducted by two-way electronic audio video communication between the defendant and the courtroom in lieu of the physical presence of the defendant in the courtroom. The defendant may be accompanied by his or her attorney, and may enter a plea, during such an arraignment. The defendant shall have the right to make his or her plea while physically present in the courtroom if he or she so requests.

(c) Each county conducting a pilot project pursuant to this section shall submit reports to the Legislative Analyst and the Judicial Council no later than September 30 of each year. The report shall include the following data:

(1) The number of add-on pleas, and the number of cases disposed of, through the use of audio video arraignment.

(2) The number of defendants who refuse to sign the waiver of personal appearance and are transported to the courtroom to be physically present for the arraignment proceedings.

(3) The number and impact of add-on defendants arraigned.

(4) Initial costs and maintenance costs of the project.

(5) Cost savings, including transportation costs, over the previous method of arraignment.

(6) The impact of audio video arraignment on all participants in

the procedures used under this section, including, but not limited to, security personnel, attorneys, judges, defendants, and court employees.

(7) Any other benefits or problems incurred.

(8) Any future plans for the project.

Other specific data for inclusion in the report may be specified by the Judicial Council.

(d) The Legislative Analyst shall review and summarize all data submitted by the counties and shall submit a report on the fiscal effects of this section along with any recommendations to the Legislature no later than December 1 of each year. The Judicial Council shall also review and summarize all data submitted by the counties and shall submit a report on the nonfiscal, policy consequences of this section along with any recommendations to the Legislature no later than December 1 of each year.

(e) Notwithstanding any other provision of this section, a judge may order a defendant's personal appearance in court for arraignment, and shall not pursuant to this section accept a plea of guilty or no contest from a defendant not physically in the courtroom.

SEC. 3. Section 2 of this bill incorporates amendments to Section 977.2 of the Penal Code proposed by both this bill and AB 1347. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1986, (2) each bill amends Section 977.2 of the Penal Code, and (3) this bill is enacted after AB 1347, in which case Section 977.2 of the Penal Code, as amended by AB 1347, shall remain operative only until the operative date of this bill, at which time Section 2 of this bill shall become operative, and Section 1 of this bill shall not become operative.

CHAPTER 1126

An act to repeal and add Section 10854 of the Revenue and Taxation Code, and to amend Sections 9554 and 42001 of, to add Section 42001.8 to, and to amend, repeal, and add Section 22651 of, the Vehicle Code, relating to motor vehicles, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1985. Filed with Secretary of State September 28, 1985.]

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

SECTION 1. The Legislature finds and declares that revenue losses to the State of California resulting from failure to pay motor vehicle registration and license fees approach seventy million dollars ($70,000,000) annually, and that increased enforcement and

penalties, together with a final, limited opportunity to pay overdue fees without penalty, is necessary to generate additional revenue to support essential activities of the Department of the California Highway Patrol and the Department of Motor Vehicles and to improve public compliance.

It is therefore the intent of the Legislature, in enacting this act, to combine a program of increased penalties for, and enforcement of, delinquent motor vehicle registration and license fees with a limited period of amnesty from the penalties provided for delinquent fees on a one-time only basis to encourage persons in arrears to meet these obligations without penalties prior to the effective date of increased penalties and enforcement. It is the further intent of the Legislature to encourage local governments to institute parking violation amnesty programs coinciding with the registration and license fee amnesty program enacted by this act to encourage persons delinquent in both paying their parking violation penalties and their registration and license fees to settle their overdue obligations during a joint amnesty period.

SEC. 2. Section 10854 of the Revenue and Taxation Code is repealed.

SEC. 3. Section 10854 is added to the Revenue and Taxation Code, to read:

10854. Penalties for failure to pay license fees before delinquency are as specified in Section 9554 of the Vehicle Code.

SEC. 4. Section 9554 of the Vehicle Code is amended to read:

9554. (a) The penalty shall be computed as provided in Sections 9406 and 9559 and shall be collected with the fee, except that the penalty for deliquency with respect to any transfer is three dollars ($3), and applies only to the last transfer.

(b) A penalty shall be added on any application for original or renewal of registration made later than midnight of the date of expiration or on or after the date penalties become due. The penalty shall be computed after the registration and weight fees have been combined with the license fee specified in Section 10751 of the Revenue and Taxation Code.

(c) For a delinquency period of one year or less, the penalty is 20 percent of the fee.

(d) For a delinquency period of more than one year to and including two years, the penalty is 40 percent of the fee.

(e) For a delinquency period of more than two years, the penalty is 80 percent of the fee.

SEC. 5. 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.

(q) This section shall remain in effect only until April 1, 1986, and on that date is repealed unless a later enacted statute, which is enacted on or before April 1, 1986, deletes or extends that date.

SEC. 6. Section 22651 of the Vehicle Code is amended to read:

22651. Any peace officer, as 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 the 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 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. Only a peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, may remove a vehicle from a highway pursuant to this subdivision. For purposes of this subdivision, the 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.

(q) This section shall become operative on April 1, 1986.

SEC. 7. Section 42001 of the Vehicle Code is amended to read:

42001. (a) Except as provided in Section 42001.1, 42001.3, 42001.5, 42001.7, 42001.8, or 42001.9, or subdivision (b) or (c) of this section, or Article 2 (commencing with Section 42030), 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 as follows:

(1) By a fine not exceeding one hundred dollars ($100).

(2) For a second infraction occurring within one year of a prior infraction which resulted in a conviction, a fine not exceeding two hundred dollars ($200).

(3) For a third or any subsequent infraction occurring within one year of two or more prior infractions which resulted in convictions, a fine not exceeding two hundred fifty dollars ($250).

(b) Every person convicted of a misdemeanor violation of Section 2800, 2801, or 2803 insofar as they affect failure to stop and submit to inspection of equipment or for an unsafe condition endangering any person, or Section 2800.1, shall be punished as follows:

(1) By a fine not exceeding fifty dollars ($50) or imprisonment in the county jail not exceeding five days.

(2) For a second conviction within a period of one year, a fine not exceeding one hundred dollars ($100) or imprisonment in the county jail not exceeding 10 days, or both that fine and imprisonment.

(3) For a third or any subsequent conviction within a period of one year, a fine not exceeding five hundred dollars ($500) or imprisonment in the county jail not exceeding six months, or both that fine and imprisonment.

(c) A 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).

SEC. 8. Section 42001.8 is added to the Vehicle Code, to read:

42001.8. Every person convicted of an infraction for a violation of Section 4000 shall be punished by a fine of not less than fifty dollars ($50) and not more than two hundred fifty dollars ($250).

SEC. 9. The Department of Motor Vehicles shall establish an amnesty period of three months from January 1, 1986, to and including March 31, 1986, during which period any motor vehicle for which registration is required under the Vehicle Code may be registered without the payment of any penalty otherwise required by that code with respect to any fee required for registration by law to be paid on or prior to February 28, 1985.

SEC. 10. The Department of Motor Vehicles shall prepare and disseminate a public information program on the amnesty period created under Section 7 of this act, which shall, among other things, advise the motoring public of an official policy to emphasize detection and prosecution for registration violations not corrected during the amnesty period. The department shall also publicize the increase in penalties for registration violations effective April 1, 1986, so as to maximize public awareness of and participation in the amnesty program. The department shall coordinate its publicity efforts and other actions taken in implementation of this act with the Department of the California Highway Patrol. The department shall conduct the publicity program from November 1, 1985, to and including March 15, 1986.

SEC. 11. For amnesty under this act to apply, all delinquent fees for the registration of a particular vehicle are required to be paid during the amnesty period. Amnesty shall not apply in any case of partial payment of delinquent fees.

SEC. 12. Sections 2, 3, 4, 7, and 8 of this act shall become operative on April 1, 1986. Sections 5 and 6 of this act shall become operative only if Assembly Bill 771 is enacted and amends Section 22651 of the Vehicle Code.

SEC. 13. The sum of one million eight hundred seventy-five thousand dollars ($1,875,000) is hereby appropriated from the Motor Vehicle Account in the State Transportation Fund to the Department of Motor Vehicles for purposes of implementing and publicizing the delinquent motor vehicle registration fee amnesty program created by Section 7 of this 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 authorize the Department of Motor Vehicles to commence preparation for the implementation of a delinquent motor vehicle registration fee amnesty program as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 1127

An act to amend Section 1502 of, to add Section 1502.5 to, and to add Chapter 3.3 (commencing with Section 1569) to Division 2 of, the Health and Safety Code, relating to residential care facilities for the elderly, and making an appropriation therefor.

[Approved by Governor September 28, 1985 Filed with Secretary of State September 28, 1985]

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

SECTION 1. Section 1502 of the Health and Safety Code is amended to read:

1502. As used in this chapter:

(a) "Community care facility" means any facility, place, or building which is maintained and operated to provide nonmedical residential care, adult 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" 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) "Adult day care facility" means any facility which provides nonmedical care to persons 18 years of age or older 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.

(3) "Homefinding agency" 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.

(4) "Foster family home" 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.

(5) "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.

(6) "Social rehabilitation facility" means any residential facility which provides social rehabilitation services for no longer than 18 months in a group setting to adults recovering from mental illness who temporarily need assistance, guidance, or counseling. Program

components shall be subject to program standards pursuant to Section 5458.1.

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. 2. Section 1502.5 is added to the Health and Safety Code, to read:

1502.5. Notwithstanding any provision of Section 1502, if Senate Bill 185 of the 1985–86 Regular Session of the Legislature is chaptered, residential care facilities for the elderly, as defined in Section 1569.2, shall not be considered community care facilities and shall be subject only to the provisions of the California Residential Care Facilities for the Elderly Act, Chapter 3.3 (commencing with Section 1569).

SEC. 3. Chapter 3.3 (commencing with Section 1569) is added to Division 2 of the Health and Safety Code, to read:

CHAPTER 3.3. RESIDENTIAL CARE FACILITIES FOR THE ELDERLY

Article 1. General Provisions

1569. This chapter shall be known and may be cited as the California Residential Care Facilities for the Elderly Act.

1569.1. The Legislature hereby finds and declares:

(a) The Legislature has taken steps in recent years to develop a continuum of long-term social and health support services for older persons in the community that provide a range of options for long-term care and residential care facilities for the elderly are central in that continuum.

(b) These efforts require a reevaluation of residential care for the elderly outside the constraints of the Community Care Facilities Act.

(c) The Community Care Facilities Act was enacted in 1973 with the primary purpose of ensuring that residents of state hospitals would have access to safe, alternative community-based housing.

(d) Since that time, due to shortages in affordable housing and a greater demand for residences for the elderly providing some care and supervision, a growing number of elderly persons with health and social care needs now reside in community care facilities that may or may not be designed to meet their needs.

(e) Progress in the field of gerontology has provided new insights and information as to the types of services required to allow older persons to remain as independent as possible while residing in a residential care facility for the elderly.

(f) The fluctuating health and social status of older persons

demands a system of residential care that can respond to these needs by making available multilevels of service within the facility, thus reducing the need for residents with fluctuating conditions to move between medical and nonmedical facilities.

(g) Residential care facilities for the elderly which are not primarily medically oriented represent a humane approach to meeting the housing, social and service needs of older persons, and can provide a homelike environment for older persons with a variety of care needs.

(h) It is, therefore, the intent of the Legislature to require that residential care facilities for the elderly be licensed as a separate category within the existing licensing structure of the State Department of Social Services.

1569.2. As used in this chapter:

(a) "Care and supervision" means the provision or promise to provide or make available in the future, in a residential care facility for the elderly, assistance with personal activities of daily living for residents who require this type of assistance.

(b) "Department" means the State Department of Social Services.

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

(d) "Health related services" mean services which shall be directly provided by an appropriate skilled professional, including a registered nurse, licensed vocational nurse, physical therapist, or occupational therapist.

(e) "Instrumental activities of daily living" means any of the following: housework, meal preparation and cleanup, laundry, taking of medication, money management, appropriate transportation, correspondence, telephoning, and related tasks.

(f) "License" means a basic permit to operate a residential care facility for the elderly.

(g) "Personal activities of daily living" means any of the following: dressing, feeding, toileting, bathing, transferring, and mobility and associated tasks.

(h) "Personal care" means assistance with personal activities of daily living, as defined.

(i) "Residential care facility for the elderly" means a group housing arrangement chosen voluntarily by residents over 60, but also including persons under 60 with compatible needs, who are provided varying levels and intensities of care and supervision or personal care, based upon their varying needs, as determined in order to be admitted and to remain in the facility. This subdivision shall be operative only until the enactment of legislation implementing the three levels of care in residential care facilities for the elderly pursuant to Section 1569.70.

(j) "Residential care facility for the elderly" means a group housing arrangement chosen voluntarily by residents over 60, but also including persons under 60 with compatible needs, who are provided varying levels of intensity of care and supervision, personal

care, or health related services, based upon their varying needs, as determined in order to be admitted and to remain in the facility.

This subdivision shall become operative upon the enactment of legislation implementing the three levels of care in residential care facilities for the elderly pursuant to Section 1569.70.

(k) "Supportive services" means resources available to the resident in the community which help to maintain their functional ability and meet their needs as identified in the individual resident assessment. Supportive services may include any of the following: medical, dental, and other health care services; transportation; recreational and leisure activities; social services; mental health services; and protective services.

1569.3. The license of any facility licensed as a residential facility for the elderly under the California Community Care Facilities Act provided for in Chapter 3 (commencing with Section 1500) on January 1, 1986, shall automatically be transferred for the unexpired term of the license to licensure as a residential care facility for the elderly under this act.

Article 2. Licensing

1569.10. (a) No person, firm, partnership, association, or corporation within the state shall operate, establish, manage, conduct, or maintain a residential care facility for the elderly in this state, without first obtaining a license therefor, as provided in this chapter. This section shall apply to residential care facilities for the elderly directly operated by a county. Each county operated residential care facility for the elderly shall comply with the standards established by the director.

(b) If Assembly Bill 384 of the 1985–86 Regular Session of the Legislature is chaptered and adds Section 1569.10 to the Health and Safety Code, that section shall prevail over this section.

1569.11. The department shall inspect and license residential care facilities for the elderly. A license is not transferable.

1569.12. The department may provide consulting services upon request to any residential care facility for the elderly to assist in the identification or correction of deficiencies and in the upgrading of the quality of care provided by the facility.

1569.13. The department may contract for state, county, or other public agencies to assume specified licensing, approval, or consultation responsibilities. In exercising the authority so delegated, these agencies shall conform to the requirements of this chapter and to the rules, regulations, and standards of the department. The department shall reimburse agencies for services performed pursuant to this section, and the payments shall not exceed actual cost.

If any grants-in-aid are made by the federal government for the support of any inspection or consultation service approved by the department, the amount of the federal grant shall first be applied to

defer the cost of the service before state reimbursement is made.

1569.14. No license issued pursuant to this chapter shall have any property value for sale or exchange purposes and no person, including any owner, agent, or broker, shall sell or exchange any license for any commercial purpose.

1569.145. This chapter does not apply to any of the following:

(a) Any health facility, as defined by Section 1250.

(b) Any clinic, as defined by Section 1202.

(c) Any facility conducted by and for the adherents of any well-recognized church or religious denomination for the purpose of providing facilities for the care or treatment of the sick who depend upon prayer or spiritual means for healing in the practice of the religion of such church or denomination.

(d) Any house, institution, hotel, or other similar place that supplies board and room only, or room only, or board only; provided, however, that no resident thereof requires any element of care as determined by the director.

(e) Recovery houses or other similar facilities providing group living arrangements for persons recovering from alcoholism or drug addiction where the facility provides no care or supervision.

(f) Any arrangement for the receiving and care of persons by a relative or any arrangement for the receiving and care of persons from only one family by a close friend of the guardian or conservator, if the arrangement is not for financial profit and occurs only occasionally and irregularly, as defined by regulations of the department.

(g) Any similar facility determined by the director.

1569.147. (a) Nothing in this chapter authorizes the imposition of rent regulations or controls for licensed residential care facilities for the elderly.

(b) Licensed residential care facilities for the elderly are not subject to controls on rent imposed by any state or local agency or other local government entity.

1569.15. Any person desiring issuance or renewal of a license for a residential care facility for the elderly under this chapter shall file with the department, pursuant to regulations, an application on forms furnished by the department, which shall include, but not be limited to:

(a) Evidence satisfactory to the department of the ability of the applicant to comply with this chapter and of rules and regulations adopted under this chapter by the department. Where there is an application for renewal of a license, evidence satisfactory to the department that the licensee has substantially complied for the term of the previous license with this chapter, and with the rules and regulations adopted pursuant to this chapter.

(b) Evidence satisfactory to the department that the applicant is of reputable and responsible character. The evidence shall include, but not be limited to, a criminal record clearance pursuant to Section 1569.17, employment history, and character references. If the

applicant is a firm, association, organization, partnership, business trust, corporation, or company, like evidence shall be submitted as to the members or shareholders thereof, and the person in charge of the residential care facility for the elderly which application for issuance or renewal of license or special permit is made.

(c) Evidence satisfactory to the department that the applicant has sufficient financial resources to maintain the standards of service required by regulations adopted pursuant to this chapter.

(d) Disclosure of the applicant's prior or present service as an administrator, general partner, corporate officer or director of, or as a person who has held or holds a beneficial ownership of 10 percent or more in, any residential care facility for the elderly or in any facility licensed pursuant to Chapter 1 (commencing with Section 1200), Chapter 2 (commencing with Section 1250), or Chapter 3 (commencing with Section 1500).

(e) Disclosure of any revocation or other disciplinary action taken, or in the process of being taken, against a license held or previously held by the entities specified in subdivision (c).

(f) Any other information as may be required by the department for the proper administration and enforcement of this chapter.

(g) Following the implementation of Article 7 (commencing with Section 1569.70) evidence satisfactory to the department of the applicant's ability to meet regulatory requirements for the level of care the facility intends to provide.

(h) Evidence satisfactory to the department of adequate knowledge of supportive services and other community supports which may be necessary to meet the needs of elderly residents.

(i) A signed statement that the person desiring issuance or renewal of a license has read and understood the residential care facility for the elderly statute and regulations.

1569.155. Upon initial licensure, residential care facilities for the elderly shall be provided a printed copy of all applicable regulations by the department, without charge. All licensees shall subscribe to the appropriate regulation subscription service and are responsible for keeping current on changes in regulatory requirements.

1569.157. (a) Every licensed residential care facility for the elderly, at the request of a majority of its residents, shall assist the residents in establishing and maintaining a resident-oriented facility council. The council shall be composed of residents of the facility and may include family members of residents of the facility. The council may, among other things, make recommendations to facility administrators to improve the quality of daily living in the facility and may negotiate to protect residents' rights with facility administrators.

(b) A violation of subdivision (a) shall not be subject to the provisions of Section 1569.40, but shall be subject to any other provision of this chapter.

1569.16. If an application for a license indicates, or the department determines during the application review process, that

the applicant previously was issued a license under this chapter or under Chapter 1 (commencing with Section 1200), Chapter 2 (commencing with Section 1250), or Chapter 3 (commencing with Section 1500) and the prior license was revoked within the preceding two years, the department shall cease any further review of the application until two years shall have elapsed from the date of the revocation. The cessation of review shall not constitute a denial of the application for purposes of Section 1569.22 or any other provision of law. All residential care facilities for the elderly are exempt from the health planning requirements contained in Part 1.5 (commencing with Section 437) of Division 1.

1569.17. It is the intent of the Legislature in enacting this section to require the fingerprints of those individuals whose contact with clients of residential care facilities for the elderly may pose a risk to the clients' health and safety.

(a) Before issuing a license to any person or persons to operate or manage a residential care facility for the elderly, the department shall secure from an appropriate law enforcement agency a criminal record to determine whether the applicant or any other person specified in subdivision (b) has ever been convicted of a crime other than a minor traffic violation. If it is found that the applicant or any other person specified in subdivision (b) has been convicted of a crime, other than a minor traffic violation, the application shall be denied, unless the director grants an exemption pursuant to subdivision (e).

(b) In addition to the applicant, the provisions of this section shall be applicable to criminal convictions of the following persons:

(1) Adults responsible for administration or direct supervision of staff.

(2) Any person, other than a client, residing in the facility.

(3) Any person who provides client assistance in dressing, grooming, bathing, or personal hygiene.

(4) Any staff person or employee who has frequent and routine contact with the clients. In determining who has frequent contact, any volunteer who is in the facility shall be exempt unless the volunteer is used to replace or supplement staff in providing direct care and supervision of clients. In determining who has routine contact, staff and employees under direct onsite supervision and who are not providing direct care and supervision or who have only occasional or intermittent contact with clients shall be exempt.

(5) If the applicant is a firm, partnership, association, or corporation, the chief executive officer or other person serving in like capacity.

(6) Additional officers of the governing body of the applicant, or other persons with a financial interest in the applicant, as determined necessary by the department by regulation. The criteria used in the development of these regulations shall be based on the person's capability to exercise substantial influence over the operation of the facility.

(c) Subsequent to initial licensure, any person specified in subdivision (b) and not exempted from fingerprinting shall, as a condition to employment, residence, or presence in a residential facility for the elderly, be fingerprinted and sign a declaration under penalty of perjury regarding any prior criminal convictions. The licensee shall submit these fingerprints to the licensing agency not later than 20 days following employment, residence, or initial presence in the residential care facility for the elderly. Except for persons specified in paragraph (2) of subdivision (b), the licensee shall endeavor to ascertain the previous employment history of persons required to be fingerprinted under this subdivision. If it is determined by the State Department of Social Services, on the basis of the fingerprints submitted to the Department of Justice, that the person has been convicted of a sex offense against a minor, or has been convicted for an offense specified in Section 273a or 273d of the Penal Code, or has been convicted of a felony, the State Department of Social Services shall notify the licensee to act immediately to terminate the person's employment, remove the person from the residential care facility for the elderly, or bar the person from entering the residential care facility for the elderly. The State Department of Social Services may subsequently grant an exemption pursuant to subdivision (e). If the conviction was for another crime, except a minor traffic violation, the licensee shall, upon notification by the State Department of Social Services, act immediately to either (1) terminate the person's employment, remove the person from the residential care facility for the elderly, or bar the person from entering the residential care facility for the elderly; or (2) seek an exemption pursuant to subdivision (e). The department shall determine if the person shall be allowed to remain in the facility until a decision on the exemption is rendered.

(d) For purposes of this section or any other provision of this chapter, a conviction means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which the department is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of the sentence, notwithstanding a subsequent order pursuant to the provisions of Sections 1203.4 and 1203.4a of the Penal Code permitting 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. For purposes of this section or any other provision of this chapter, the record of a conviction, or a copy thereof certified by the clerk of the court or by a judge of the court in which the conviction occurred, shall be conclusive evidence of the conviction.

(e) After review of the record, the director may grant an exemption from disqualification for a license pursuant to subdivision (a), or for employment, residence, or presence in a residential care

facility for the elderly as specified in subdivision (c) if the director has substantial and convincing evidence to support a reasonable belief that the applicant and the person convicted of the crime, if other than the applicant, are of such good character as to justify issuance of the license or special permit or granting an exemption for purposes of subdivision (c). However, no exemption shall be granted pursuant to this subdivision if the conviction was for an offense specified in paragraph (1) of Section 273a or Section 273d of the Penal Code, or was a conviction of another crime against an individual specified in subdivision (c) of Section 667.5 of the Penal Code.

1569.18. (a) A fee adjusted by facility and capacity shall be charged by the department for the issuance or renewal of a license to operate a residential care facility for the elderly or for processing any application therefor. The amount of the fee shall be based upon a portion of the application and renewal processing costs, but fee shall not exceed the following:

Capacity	Fee
1- 6	$100
7-15	$150
16-49	$200
50+	$250

No local jurisdiction shall impose any business license, fee, or tax for the privilege of operating a facility licensed under this chapter which serves six or fewer persons.

(b) The revenues collected from licensing fees pursuant to this section shall be deposited into the Residential Care Facility for the Elderly Fund created by subdivision (c), and, when appropriated, shall be utilized by the department to finance postlicensure inspections pursuant to Section 1569.24 to allow increased monitoring of facilities with a history of noncompliance with licensing laws and regulations pursuant to this chapter and for administrative activities in support of the licensing program. The revenues collected shall be used in addition to any other funds appropriated in support of the licensing program.

The department shall not utilize any portion of these revenues sooner than 30 days after notification in writing of the purpose and use, as approved by the Department of Finance, the Joint Legislative Budget Committee and the chairpersons of the committee in each house that considers appropriations for each fiscal year. For fiscal year 1986–87 and thereafter, the department shall submit a budget change proposal to justify any positions or any other related support costs on an ongoing basis.

(d) These fees applicable to residential care facilities for the elderly shall not be effective unless licensing fees are established for all community residential care facilities licensed by the State Department of Social Services.

1569.19. Each new license issued pursuant to this chapter shall expire 12 months from the date of issuance.

A renewal license may be issued for a period not to exceed two years; provided however, that the licensee has been found not to be in violation of any statutory requirements or rules or regulations, during the preceding license period.

Application for renewal of a license shall be filed with the department pursuant to departmental rules and regulations.

If Assembly Bill No. 1674 of the 1985–86 Regular Session of the Legislature is chaptered and adds Section 1569.19 to the Health and Safety Code, that section shall prevail over this section.

1569.20. Upon the filing of the application for issuance or renewal of a license and substantial compliance with this chapter and the rules and regulations of the department, the director shall issue to the applicant the license. If the director finds that the applicant is not in compliance with the laws or regulations of this chapter, the director shall deny the applicant a license or license renewal.

1569.21. The director may issue provisional licenses to operate residential care facilities for the elderly for the facilities which the director determines are in substantial compliance with this chapter and the rules and regulations adopted pursuant thereto; provided, that no life safety risks are involved, as determined by the director. In determining whether any life safety risks are involved, the director shall require completion of all applicable fire clearances and criminal record clearances as otherwise required by the department's rules and regulations. This provisional license shall expire six months from the date of issuance, or at such earlier time as the director may determine, and may not be renewed. However, the director may extend the term of a provisional license for an additional six months at time of application, if it is determined that more than six months will be required to achieve full compliance with licensing standards due to circumstances beyond the control of the applicant; provided, that all other requirements for a license have been met.

1569.22. Immediately upon the denial of any application for a license, the department shall notify the applicant in writing. Within 15 days after the department mails the notice, the applicant may present his or her written petition for a hearing to the department. Upon receipt by the department of the petition in proper form, the petition shall be set for hearing. The proceedings shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the department has all the powers granted therein.

1569.23. As a requirement for licensure, the applicant shall attend a one-day orientation given by the department which outlines the applicable rules and regulations, and the scope and responsibility for operation of a residential care facility for the elderly. The orientation shall include information on relevant community services, and may include participation by local area agencies on aging, the Long-Term Care Ombudsman, and provider organizations.

1569.24. Within 90 days of initial licensure, the department shall inspect the facility to evaluate compliance with rules and regulations and to assess the facility's continuing ability to meet regulatory requirements.

The department may take appropriate remedial action as provided for in this chapter.

Article 3. Regulations

1569.30. (a) The department shall adopt, amend, or repeal, in accordance with Chapter 4.5 (commencing with Section 11371) 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 statute of this state.

(b) The regulations governing residential facilities for the elderly under the Community Care Facilities Act provided for in Chapter 3 (commencing with Section 1500) shall continue to govern residential care facilities for the elderly under this act until amended or repealed.

1569.31. The regulations for a license shall prescribe standards of safety and sanitation for the physical plant and standards for basic care and supervision, personal care, and services to be provided.

The department's regulations shall allow for the development of new and innovative community programs.

In adopting regulations which implement this chapter, the department shall provide flexibility to allow facilities conducted by and exclusively for adherents of a well-recognized church or religious denomination who rely solely on prayer or spiritual means for healing to operate a licensed residential care facility for the elderly.

1569.312. Every facility required to be licensed under this chapter shall provide at least the following basic services:

(a) Assistance with instrumental activities of daily living in the combinations which meet the needs of residents.

(b) Helping residents gain access to appropriate supportive services, as defined, in the community.

(c) Being aware of the resident's general whereabouts, although the resident may travel independently in the community.

(d) Monitoring the activities of the residents while they are under the supervision of the facility to ensure their general health, safety, and wellbeing.

(e) Encouraging the residents to maintain and develop their maximum functional ability through participation in planned activities.

1569.32. Any duly authorized officer, employee, or agent of the department may, upon presentation of proper identification, enter and inspect any place providing personal care, supervision, and services at any time, with or without advance notice, to secure compliance with, or to prevent a violation of, this chapter.

1569.33. Every licensed residential care facility for the elderly shall be periodically inspected and evaluated for quality of care by a representative or representatives designated by the director. Evaluations shall be conducted at least once per year and as often as necessary to insure the quality of care being provided.

The department shall notify the facility in writing of all 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 finding of noncompliance, the department may levy a civil penalty not to exceed fifty dollars ($50) per day which shall be paid to the department each day until the department finds the facility in compliance. If the facility fails to comply within the established length of time, then the amount collected from the facility shall be forfeited to the department. In that case, the department may also initiate action against the facility in accordance with Article 5 (commencing with Section 1569.50).

Reports on the results of each inspection, evaluation, or consultation shall be kept on file in the department, and all inspection reports, consultation reports, lists of deficiencies, and plans of correction shall be open to public inspection in the county in which the facility is located.

If Assembly Bill 1676 of the 1985–86 Regular Session of the Legislature is chaptered and adds Section 1569.33 to the Health and Safety Code, that section shall prevail over this section.

1569.335. (a) The department shall require that the facility operator, at the expense of the facility, transmit a copy of all substantiated complaints, by certified mail, to the state ombudsman in the Department of Aging, as well as the local ombudsman, if one exists, in the following cases:

(1) In the case of any substantiated complaint relating to resident physical or sexual abuse. The facility shall have three days, from the date the facility receives the citation from the state department to comply.

(2) In any case in which a facility has received three or more substantiated complaints relating to the same violation during the term of the current license.

(b) Each facility shall retain a copy of the notices transmitted pursuant to subdivision (b) and proof of their transmittal by certified mail for a period of one year after their transmittal.

(c) If any facility to which this section applies fails to comply with this section, as determined by the department, the department shall initiate civil penalty action against the facility in accordance with Article 3 (commencing with Section 1569.30) and the related rules and regulations.

(d) If Assembly Bill No. 17 of the 1985–86 Regular Session of the Legislature is chaptered and adds Section 1569.335 to the Health and Safety Code, that section shall prevail over this section.

1569.34. The director shall have the authority to contract for per-

sonal services as required in order to perform inspections of, or consultation with, residential care facilities for the elderly.

The department shall establish by December 1, 1986, within the department an interdisciplinary team of professionals to advise the department on implementation of this chapter and to be available in crisis situations to assist local licensing evaluators on the needs of elderly residents in facilities.

This team shall include at least a geriatric nurse practitioner or a public health nurse with geriatric experience and a social worker with related experience.

1569.345. Upon request, the department shall provide the Office of the State Long-Term Care Ombudsman and any approved organizations of the office with copies of inspection reports for residential care facilities for the elderly.

1569.35. (a) Any person may request an inspection of any residential care facility for the elderly in accordance with this chapter by transmitting to the department notice of an alleged violation of applicable requirements prescribed by statutes or regulations of this state, including, but not limited to, a denial of access of any person authorized to enter the facility pursuant to Section 9722 of the Welfare and Institutions Code. Any such notice shall be in writing, specifying to a reasonable extent the details of the alleged violation, and shall be signed by the complainant.

(b) The substance of the complaint shall be provided to the licensee no earlier than at the time of the inspection. Unless the complainant specifically requests otherwise, neither the substance of the complaint provided the licensee nor any copy of the complaint or any record published, released, or otherwise made available to the licensee shall disclose the name of any person mentioned in the complaint except the name of any duly authorized officer, employee, or agent of the department conducting the investigation or inspection pursuant to this chapter.

(c) Upon receipt of a complaint, other than a complaint alleging denial of a statutory right of access to a residential care facility for the elderly, the department shall make a preliminary review and, unless the department determines that the complaint is willfully intended to harass a licensee or is without any reasonable basis, it shall make an onsite inspection within 10 days after receiving the complaint. In either event, the complainant shall be promptly informed of the department's proposed course of action.

(d) Upon receipt of a complaint alleging denial of a statutory right of access to a residential facility for the elderly, the department shall review the complaint. The complainant shall be notified promptly of the department's proposed course of action.

1569.355. The director shall establish an automated license information system on licensees and former licensees of licensed residential care facilities for the elderly. The system shall maintain a record of any information that may be pertinent, as determined by the director, for licensure under this chapter. This information may in-

clude, but is not limited to, the licensees' addresses, telephone numbers, violations of any laws related to the care of clients in a residential care facility for the elderly, licenses, revocation of any licenses and, to the extent permitted by federal law, social security numbers.

1569.36. (a) Not less than 30 days prior to the expiration date of any residential care facility for the elderly license, the department may transmit a copy to the state ombudsman in the Department of Aging as well as the local ombudsman, if one exists, of all notices sent to the facility by the department during the term of the current license as a result of a substantiated complaint regarding a violation of any of the provisions of this chapter relating to resident abuse and neglect, food, sanitation, incidental medical care, and residential supervision. During that one-year period the copy of the notices transmitted and the proof of the transmittal shall be open for public inspection.

(b) The department shall provide the names and addresses of the state ombudsman in the Department of Aging and, where applicable, the local ombudsman, to each residential care facility for the elderly. Further, the department shall notify each facility of its obligation when it is required to comply with this section.

1569.37. No licensee shall discriminate or retaliate in any manner against any person receiving the services of such licensee's residential care facility for the elderly, or against any employee of the licensee's facility, on the basis, or for the reason that, the person or employee or any other person has initiated or participated in an inspection pursuant to Section 1569.35.

Article 4. Offenses

1569.40. (a) Any person who violates this chapter, or who willfully or repeatedly violates any rule or regulation adopted 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 a fine and imprisonment.

(b) If Assembly Bill No. 1940 of the 1985–86 Regular Session of the Legislature is chaptered and adds Section 1569.40 to the Health and Safety Code, that section shall prevail over this section.

1569.41. The director may bring an action to enjoin the violation or threatened violation of Section 1569.10 or 1569.44, or both, in the superior court in and for the county in which the violation occurred or is about to occur. Any proceeding under this section shall conform to the requirements of Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, except that the director shall not be required to allege facts necessary to show or tending to show lack of adequate remedy at law or irreparable damage or loss. Upon a finding by the director that the violations threaten the health or safety of persons in, or served by, a residential care facility for the elderly, the agency contracted with pursuant to Sec-

tion 1569.13 may bring an action to enjoin the violation, threatened violation, or continued violation by any residential care facility for the elderly which is located in an area for which it is responsible pursuant to the terms of the contract.

With respect to any and all actions brought pursuant to this section alleging actual violation of Section 1569.10 or 1569.44, or both, the court shall, if it finds the allegations to be true, issue its order enjoining the residential care facility for the elderly from continuance of the violation.

1569.42. Any action brought by the director against a residential care facility for the elderly shall not abate by reason of a sale or other transfer of ownership of the residential care facility for the elderly which is a party to the action except with express written consent of the director.

1569.43. The district attorney of every county shall, upon application by the state department or its authorized representative, institute and conduct the prosecution of any action for violation of this chapter within his or her county.

1569.44. A facility shall be required to be licensed if any of the following apply:

(a) It is providing care, supervision, and services as defined by regulations for residential care facilities for the elderly.

(b) It is represented as offering those services defined in regulations.

(c) It is knowingly accepting or retaining residents who need care, supervision, or services as defined by regulations.

If Assembly Bill 384 of the 1985–86 Regular Session of the Legislature is chaptered and adds Section 1569.44 to the Health and Safety Code, that section shall prevail over this section.

1569.45. A facility shall be licensed as a residential care facility for the elderly if it offers care and supervision, as defined, to its residents. Every residential care facility for the elderly in this state shall be licensed under this chapter.

1569.495. The civil, criminal, and administrative remedies available to the department pursuant to this article are not exclusive, and may be sought and employed in any combination deemed advisable by the state department to enforce this chapter.

Article 5. Suspension and Revocation

1569.50. The department may suspend or revoke any license issued under this chapter upon any of the following grounds and in the manner provided in this chapter:

(a) Violation by the licensee of this chapter or of the rules and regulations adopted under this chapter.

(b) Aiding, abetting, or permitting the violation of this chapter or of the rules and regulations adopted under this chapter.

(c) Conduct in the operation or maintenance, or both the operation and maintenance, of a residential facility for the elderly which

is inimical to the health, morals, welfare, or safety of either an individual in or receiving services from the facility or the people of the State of California.

(d) The conviction of a licensee, or other person mentioned in Section 1569.17 at any time during licensure, of a crime as defined in Section 1569.17.

The director may temporarily suspend any license, prior to any hearing when, in the opinion of the director, such action is necessary to protect residents or clients of the facility from physical or mental abuse, abandonment, or any other substantial threat to health or safety. The director shall notify the licensee of the temporary suspension and the effective date thereof and at the same time shall serve such provider with an accusation. Upon receipt of a notice of defense to the accusation by the licensee, the director shall, within 15 days, set the matter for hearing, and the hearing shall be held as soon as possible but not later than 30 days after receipt of such notice. The temporary suspension shall remain in effect until such time as the hearing is completed and the director has made a final determination on the merits. However, the temporary suspension shall be deemed vacated if the director fails to make a final determination on the merits within 30 days after the original hearing has been completed.

1569.51. Proceedings for the suspension, revocation, or denial of a license under this chapter 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, and the department shall have all the powers granted by these provisions. In the event of conflict between this chapter and those provisions of the Government Code, the provisions of the Government Code shall prevail.

1569.52. The withdrawal of an application for a license after it has been filed with the department shall not, unless the department consents in writing to such withdrawal, deprive the department of its authority to institute or continue a proceeding against the applicant for the denial of the license upon any ground provided by law or to enter an order denying the license upon any such ground.

The suspension, expiration, or forfeiture by operation of law of a license issued by the department, or its suspension, forfeiture, or cancellation by order of the department or by order of a court of law, or its surrender without the written consent of the department, shall not deprive the department of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground.

1569.53. Any license suspended or revoked pursuant to this chapter may be reinstated pursuant to Section 11522 of the Government Code.

Whenever a license issued under this chapter for a residential care

facility for the elderly is suspended, revoked, temporarily suspended, forfeited, canceled, or expires, the department shall provide written notice of the occurrence within 10 days to the local director of social services in the county in which the facility is located.

Article 6. Other Provisions

1569.60. (a) The director shall require as a condition precedent to the issuance, or renewal, of any license for a residential care facility for the elderly, if the licensee handles or will handle any money of a person within the facility, that the applicant for the license or the renewal of the license file or have on file with the department a bond issued by a surety company admitted to do business in this state in a sum to be fixed by the department based upon the magnitude of the operations of the applicant, but which sum shall not be less than one thousand dollars ($1,000), running to the State of California and conditioned upon his or her faithful and honest handling of the money of persons within the facility.

(b) The failure of any licensee under this chapter to maintain on file with the state department a bond in the amount prescribed by the director or who embezzles the trust funds of a person in the facility shall constitute cause for the revocation of the license.

(c) The provisions of this section shall not apply if the licensee handles moneys of persons within the residential care facility for the elderly in amounts less than fifty dollars ($50) per person and less than five hundred dollars ($500) for all persons in any month.

1569.61. The director may grant a partial or total variance from the bonding requirements of Section 1569.60 for any residential care facility for the elderly if he or she finds that compliance with them is so onerous that a residential care facility for the elderly will cease to operate, and if he or she also finds that money of the persons received or cared for in the facility has been, or will be, deposited in a bank in this state, in a trust company authorized to transact a trust business in this state, or in a savings and loan association in this state, upon condition that such money may not be withdrawn except on authorization of the guardian or conservator of the person.

1569.62. The director shall insure that operators and staffs of residential care facilities for the elderly have appropriate training to provide the care and services for which a license or certificate is issued. The department shall develop jointly with the Department of Aging, with input from provider organizations, requirements for a uniform core of knowledge within the required 20 hours of continuing education for administrators, and their designated substitutes, of residential care facilities for the elderly. This knowledge base shall include, as a minimum, basic understanding of the psycho-social and physical care needs of elderly persons and administration. The department shall develop jointly with the Department of Aging, with input from provider organizations, a uniform resident assessment tool to be used by all residential care facilities for the elderly. The

assessment tool shall, in lay terms, help to identify resident needs for service and assistance with activities of daily living.

The departments shall develop a mandatory training program on the utilization of the assessment tool to be given to administrators and their designated substitutes.

1569.63. The director shall insure that licensing personnel at the department have appropriate training to properly carry out this chapter.

1569.64. The department shall institute a staff development and training program within the organization structure to develop among staff the knowledge and understanding necessary to successfully carry out this chapter. Specifically, the department shall do all of the following:

(a) Provide staff with 36 hours of training per year which reflect the unique needs of the elderly.

(b) Give priority to applications from individuals with experience as care providers to the elderly.

(c) Provide new staff who have earned fewer than 16 semester units in gerontology or geriatric education from an accredited college at least 40 hours of preservice training in the aging process and the psycho-social and health care needs of elderly persons during the first 90 days of their employment.

1569.65. (a) On or before January 1, 1987, the department shall publish a comprehensive consumer guideline brochure to assist persons in the evaluation and selection of a licensed residential care facility for the elderly. The department shall develop the brochure for publication with the advice and assistance of the Advisory Committee on Community Care Facilities and the State Department of Aging.

(b) The consumer guideline brochure shall include, but not be limited to, guidelines highlighting resident health and safety issues to be considered in the selection of a residential care facility for the elderly, locations of the licensing offices of the State Department of Social Services where facility records may be reviewed, types of local organizations which may have additional information on specific facilities, and a list of recommended inquiries to be made in the selection of a residential care facility for the elderly.

(c) Upon publication, the consumer guideline brochures shall be distributed to statewide resident advocacy groups, statewide consumer advocacy groups, state and local ombudsmen, and all licensed residential care facilities for the elderly. The brochure shall be made available on request to all other interested persons.

1569.66. At least annually, the director shall publish and make available to interested persons a list or lists covering all licensed residential care facilities for the elderly, the services for which each facility has been licensed, and the evaluation rating of each residential care facility for the elderly. A list or lists containing changes in facility ratings shall be published and made available periodically, as determined by the director.

1569.67. For the purposes of any contract, deed, or covenant for the transfer of real property executed on or after January 1, 1979, a residential facility for the elderly which serves six or fewer persons shall be considered a residential use of property and a use of property by a single family, notwithstanding any disclaimers to the contrary.

Article 7. Levels of Care

1569.70. The Health and Welfare Agency, through an interagency task force, including a representative from the Department of Finance, shall submit to the Legislature by December 1, 1986, an implementation plan to establish regulations for three levels of care under the residential care facilities for the elderly license.

(a) The guidelines for the development of these levels of care are:

(1) Level I-Basic care and supervision. Residents at this level are able to maintain a higher degree of independence and need only minimum care and supervision, as defined, and minimal personal care assistance.

(2) Level II-Nonmedical personal care. Residents at this level have functional limitations and psycho-social needs requiring not only care and supervision but frequent assistance with personal activities of daily living and active intervention to help them maintain their potential for independent living.

(3) Level III-Health related assistance. Residents at this level require the services of lower levels and rely on the facility for extensive assistance with personal activities of daily living. This level may include residents who also require the occasional services of an appropriate skilled professional due to chronic health problems and returning residents recovering from illness, injury, or treatment which required placement in facilities providing higher levels of care.

These levels are to be based on the services required by residents at each level due to their functional limitations.

(b) The implementation plan shall include:

(1) Guidelines for meeting requirements at each level of care by utilizing appropriate community and professional services. The department shall develop options for facilities to meet resident needs by accessing community services or hiring appropriate staff.

(2) Assessment procedures for facility evaluation of resident level of care needs.

(3) Process for ensuring the individual facility's ability to serve clients at each level of care they intend to provide.

(4) Recommendations for a supplemental rate structure based on the services required at Levels II and III to be provided for residents who need those levels of care and are recipients of SSI/SSP. These rates shall be in addition to the basic SSI/SSP rate for providing care and supervision and shall reflect actual costs of operation for residential care facilities for the elderly developed in a rate study completed by the task force.

In developing the supplemental rate structure, the task force shall consider various payment mechanisms, including but not limited to, a voucher system, vendorization, and direct payments to beneficiaries.

(5) Procedures for assessment and certification of SSI/SSP recipients by county social services departments to allow for administration of the supplemental rate structure.

(6) Recommendations for appropriations in the 1987–88 Budget to implement the levels of care system.

(7) Procedures for evaluating and monitoring the appropriateness of the levels of care determined for SSI/SSP recipients.

(c) Implementation of the levels of care system shall require approval by the Legislature, and is subject to future appropriations in the Budget Act.

The implementation plan shall consider the applicability of the 1985 level of care report developed by the Health and Welfare Agency, so as to ensure continuity in the residential care facility for the elderly program as outlined under this chapter.

1569.71. In consultation with the State Fire Marshal the department shall develop and expedite implementation of regulations related to nonambulatory persons that ensure resident safety but also provide flexibility to allow residents to remain in the least restrictive environment.

Following the implementation of levels of care, regulations related to nonambulatory persons shall also provide the flexibility necessary for those levels in residential care facilities for the elderly.

SEC. 4. The sum of one hundred thousand dollars ($100,000) is hereby appropriated from the General Fund to the State Department of Social Services for the purposes of this act to be allocated as follows:

(a) Staff training, 1985–86 fiscal year	$60,000
(b) Establishment of an interdisciplinary team pursuant to Section 1569.34 of the Health and Safety Code, 1986–87 fiscal year	$40,000

SEC. 5. No reimbursement is required by this act pursuant to 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 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 1128

An act to amend and repeal Section 6355 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 28, 1985 Filed with Secretary of State September 28, 1985.]

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, nonmonetized gold or silver bullion, and numismatic coins 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, nonmonetized gold or silver bullion, and numismatic coins so sold.

(b) A sale in bulk, for purposes of this section, shall be deemed to have occurred if the amount of monetized bullion, nonmonetized gold or silver bullion, and numismatic coins sold in the transaction totals, in market value, 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, nonmonetized gold or silver bullion, or numismatic coins, 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 remain in effect only until January 1, 1991, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1991, deletes or extends that date. If that date is not deleted or extended, then, on and after January 1, 1991, pursuant to Section 9611 of the Government Code, Section 6355 of the Revenue and Taxation Code, as amended by Section 1 of Chapter 1158 of the Statutes of 1983, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 2. The Legislative Analyst shall report to the Legislature not later than January 1, 1989, on the fiscal impact of the sales and

use tax exemption provided by the amendments to Section 6355 of the Revenue and Taxation Code made by this act.

SEC. 3. Notwithstanding Section 2230 of the Revenue and Taxation Code, no appropriation is made by this act and the state shall not reimburse any local agency for any sales and use tax revenues lost by it under this act.

SEC. 4. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect. However, the provisions of this act shall become operative on the first day of the first calendar quarter commencing more than 90 days after the effective date of this act.

CHAPTER 1129

An act to amend Section 6253.6 of the Government Code, relating to public records.

[Approved by Governor September 28, 1985 Filed with Secretary of State September 28, 1985]

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

SECTION 1. Section 6253.6 of the Government Code is amended to read:

6253.6. (a) Notwithstanding the provisions of Sections 6252 and 6253, information compiled by public officers or public employees revealing the identity of persons who have requested bilingual ballots or ballot pamphlets, made in accordance with any federal or state law, or other data that would reveal the identity of the requester, shall not be deemed to be public records and shall not be provided to any person other than public officers or public employees who are responsible for receiving those requests and processing the same.

(b) Nothing contained in subdivision (a) shall be construed as prohibiting any person who is otherwise authorized by law from examining election materials, including, but not limited to, affidavits of registration, provided that requests for bilingual ballots or ballot pamphlets shall be subject to the restrictions contained in subdivision (a).

CHAPTER 1130

An act to amend, repeal, and add Sections 13902 and 13960 to the Government Code, relating to compensation.

[Approved by Governor September 28, 1985 Filed with Secretary of State September 28, 1985.]

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

SECTION 1. Section 13902 of the Government Code is amended to read:

13902. (a) If the third member is not a state officer acting ex officio, the member shall receive one hundred dollars ($100) for every day of actual attendance at meetings of the board not in excess of six meetings per month, together with necessary traveling expenses in attending these meetings.

(b) 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. 2. Section 13902 is added to the Government Code, to read:

13902. (a) If the third member is not a state officer acting ex officio, the member shall receive fifty dollars ($50) for every day of actual attendance at meetings of the board not in excess of eight meetings per month, together with necessary traveling expenses in attending these meetings.

(b) This section shall become operative on January 1, 1990.

SEC. 3. Section 13960 of the Government Code is amended to read:

13960. As used in this article:

(a) "Victim" shall mean any of the following residents of the State of California, or military personnel and their families stationed in California:

(1) A person who sustains injury or death as a direct result of a crime.

(2) Anyone legally dependent for support upon a person who sustains injury or death as a direct result of a crime.

(3) Any member of the family of a victim specified by paragraph (1) or any person in close relationship to such a victim, if that member or person was present during the actual commission of the crime, or any member or person herein described whose treatment or presence during treatment of the victim is medically required for the successful treatment of the victim.

(4) Any member of the family of a person who sustains injury or death as a direct result of a crime when that family member has incurred emotional injury as a result of the crime. Pecuniary loss to these victims shall be limited to only medical expenses or mental health counseling expenses or both, of which the maximum award shall not exceed ten thousand dollars ($10,000).

(5) In the event of a death caused by a crime, any individual who legally assumes the obligation, or who voluntarily pays the medical or burial expenses incurred as a direct result thereof.

(b) "Injury" shall include physical or emotional injury, or both. However, this article shall not be construed to apply to emotional

injury unless such an injury is incurred by a person who also sustains physical injury or threat of physical injury or by a member or person as defined in paragraph (3) or (4) of subdivision (a). For purposes of this article, a victim of a crime committed in violation of Section 261, 270, 270a, 270c, 271, 272, 273a, 273b, 273d, 285, 286, 288, 288.1, 288a, or 289 of the Penal Code, who sustains emotional injury shall be presumed to have sustained physical injury.

(c) "Crime" shall mean a crime or public offense as defined in Section 15 of the Penal Code which results in injury to a resident of this state, including such a crime or public offense, wherever it may take place, when the resident is temporarily absent from the state. No act involving the operation of a motor vehicle, aircraft, or water vehicle which results in injury or death shall constitute a crime for the purposes of this article, except that a crime shall include any of the following:

(1) Injury or death intentionally inflicted through the use of a motor vehicle, aircraft, or water vehicle.

(2) Injury or death caused by a driver in violation of Section 20001, 23152, or 23153 of the Vehicle Code.

(3) Injury or death caused by a driver of a motor vehicle in the immediate act of fleeing the scene of a crime in which he or she knowingly and willingly participated.

(d) "Pecuniary loss" shall mean any expenses for which the victim has not and will not be reimbursed from any other source. Losses shall include all of the following:

(1) The amount of medical or medical related expense, including psychological or psychiatric expenses, and including, but not limited to, eyeglasses, hearing aids, dentures, or any prosthetic device taken, lost, or destroyed during the commission of the crime, or the use of which became necessary as a direct result of the crime.

(2) The loss of income or support that the victim has incurred or will incur as a direct result of an injury or death in an amount of more than one hundred dollars ($100) or equal to 20 percent or more of the victims' net monthly income, whichever is less, except that in the case of persons on fixed incomes from retirement or disability who apply for assistance under this article, there shall be no minimum loss requirement.

(3) Pecuniary loss also includes nonmedical remedial care and treatment rendered in accordance with a religious method of healing recognized by state law.

(e) "Board" shall mean the State Board of Control.

(f) "Victim centers" shall mean those centers as specified in Section 13835.2 of the Penal Code.

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. Section 13960 is added to the Government Code, to read:

13960. As used in this article:

(a) "Victim" shall mean any of the following residents of the State

of California, or military personnel and their families stationed in California:

(1) A person who sustains injury or death as a direct result of a crime.

(2) Anyone legally dependent for support upon a person who sustains injury or death as a direct result of a crime.

(3) Any member of the family of a victim specified by paragraph (1) or any person in close relationship to such a victim, if that member or person was present during the actual commission of the crime, or any member or person herein described whose treatment or presence during treatment of the victim is medically required for the successful treatment of the victim.

(4) In the event of a death caused by a crime, any individual who legally assumes the obligation, or who voluntarily pays the medical or burial expenses incurred as a direct result thereof.

(b) "Injury" shall include physical or emotional injury, or both. However, this article shall not be construed to apply to emotional injury unless such an injury is incurred by a person who also sustains physical injury or threat of physical injury or by a member or person as defined in paragraph (3) of subdivision (a). For purposes of this article, a victim of a crime committed in violation of Section 261, 270, 270a, 270c, 271, 272, 273a, 273b, 273d, 285, 286, 288, 288.1, 288a, or 289 of the Penal Code, who sustains emotional injury shall be presumed to have sustained physical injury.

(c) "Crime" shall mean a crime or public offense as defined in Section 15 of the Penal Code which results in injury to a resident of this state, including such a crime or public offense, wherever it may take place, when the resident is temporarily absent from the state. No act involving the operation of a motor vehicle, aircraft, or water vehicle which results in injury or death shall constitute a crime for the purposes of this article, except that a crime shall include any of the following:

(1) Injury or death intentionally inflicted through the use of a motor vehicle, aircraft, or water vehicle.

(2) Injury or death caused by a driver in violation of Section 20001, 23152, or 23153 of the Vehicle Code.

(3) Injury or death caused by a driver of a motor vehicle in the immediate act of fleeing the scene of a crime in which he knowingly and willingly participated.

(d) "Pecuniary loss" shall mean any expenses for which the victim has not and will not be reimbursed from any other source. Losses shall include all of the following:

(1) The amount of medical or medical related expense, including psychological or psychiatric expenses, and including, but not limited to, eyeglasses, hearing aids, dentures, or any prosthetic device taken, lost, or destroyed during the commission of the crime, or the use of which became necessary as a direct result of the crime.

(2) The loss of income or support that the victim has incurred or will incur as a direct result of an injury or death in an amount of more

than one hundred dollars ($100) or equal to 20 percent or more of the victims' net monthly income, whichever is less, except that in the case of persons on fixed incomes from retirement or disability who apply for assistance under this article, there shall be no minimum loss requirement.

(3) Pecuniary loss also includes nonmedical remedial care and treatment rendered in accordance with a religious method of healing recognized by state law.

(e) "Board" shall mean the State Board of Control.

(f) "Victim centers" shall mean those centers as specified in Section 13835.2 of the Penal Code.

This section shall become operative on January 1, 1990.

SEC. 5. Section 13960 of the Government Code is amended to read:

13960. As used in this article:

(a) "Victim" shall mean any of the following residents of the State of California, or military personnel and their families stationed in California:

(1) A person who sustains injury or death as a direct result of a crime.

(2) Anyone legally dependent for support upon a person who sustains injury or death as a direct result of a crime.

(3) Any member of the family of a victim specified by paragraph (1) or any person in close relationship to such a victim, if that member or person was present during the actual commission of the crime, or any member or person herein described whose treatment or presence during treatment of the victim is medically required for the successful treatment of the victim.

(4) Any member of the family of a person who sustains injury or death as a direct result of a crime when that family member has incurred emotional injury as a result of the crime. Pecuniary loss to these victims shall be limited to only medical expenses or mental health counseling expenses or both, of which the maximum award shall not exceed ten thousand dollars ($10,000).

(5) In the event of a death caused by a crime, any individual who legally assumes the obligation, or who voluntarily pays the medical or burial expenses incurred as a direct result thereof.

(b) "Injury" shall include physical or emotional injury, or both. However, this article shall not be construed to apply to emotional injury unless such an injury is incurred by a person who also sustains physical injury or threat of physical injury or by a member or person as defined in paragraph (3) or (4) of subdivision (a). For purposes of this article, a victim of a crime committed in violation of Section 261, 270, 270a, 270c, 271, 272, 273a, 273b, 273d, 285, 286, 288, 288.1, 288a, or 289 of the Penal Code, who sustains emotional injury shall be presumed to have sustained physical injury.

(c) "Crime" shall mean a crime or public offense as defined in Section 15 of the Penal Code which results in injury to a resident of this state, including such a crime or public offense, wherever it may

take place, when the resident is temporarily absent from the state. No act involving the operation of a motor vehicle, aircraft, or water vehicle which results in injury or death shall constitute a crime for the purposes of this article, except that a crime shall include any of the following:

(1) Injury or death intentionally inflicted through the use of a motor vehicle, aircraft, or water vehicle.

(2) Injury or death caused by a driver in violation of Section 20001, 23152, or 23153 of the Vehicle Code.

(3) Injury or death caused by a driver of a motor vehicle in the immediate act of fleeing the scene of a crime in which he or she knowingly and willingly participated.

(d) "Pecuniary loss" shall mean any expenses for which the victim has not and will not be reimbursed from any other source. Losses shall include all of the following:

(1) The amount of medical or medical related expense, including psychological or psychiatric expenses, and including, but not limited to, eyeglasses, hearing aids, dentures, or any prosthetic device taken, lost, or destroyed during the commission of the crime, or the use of which became necessary as a direct result of the crime.

(2) The amount of mental health counseling related expenses which became necessary as a direct result of the crime. These counseling services may be provided by a person licensed as a clinical social worker or a person licensed as a marriage, family, or child counselor practicing within the scope of licensure, or within the scope of his or her respective practice acts.

(3) The loss of income or support that the victim has incurred or will incur as a direct result of an injury or death in an amount of more than one hundred dollars ($100) or equal to 20 percent or more of the victims' net monthly income, whichever is less, except that in the case of persons on fixed incomes from retirement or disability who apply for assistance under this article, there shall be no minimum loss requirement.

(4) Pecuniary loss also includes nonmedical remedial care and treatment rendered in accordance with a religious method of healing recognized by state law.

(e) "Board" shall mean the State Board of Control.

(f) "Victim centers" shall mean those centers as specified in Section 13835.2 of the Penal Code. 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. 6. Section 13960 is added to the Government Code, to read:

13960. As used in this article:

(a) "Victim" shall mean any of the following residents of the State of California, or military personnel and their families stationed in California:

(1) A person who sustains injury or death as a direct result of a crime.

(2) Anyone legally dependent for support upon a person who sustains injury or death as a direct result of a crime.

(3) Any member of the family of a victim specified by paragraph (1) or any person in close relationship to such a victim, if that member or person was present during the actual commission of the crime, or any member or person herein described whose treatment or presence during treatment of the victim is medically required for the successful treatment of the victim.

(4) In the event of a death caused by a crime, any individual who legally assumes the obligation, or who voluntarily pays the medical or burial expenses incurred as a direct result thereof.

(b) "Injury" shall include physical or emotional injury, or both. However, this article shall not be construed to apply to emotional injury unless such an injury is incurred by a person who also sustains physical injury or threat of physical injury or by a member or person as defined in paragraph (3) of subdivision (a). For purposes of this article, a victim of a crime committed in violation of Section 261, 270, 270a, 270c, 271, 272, 273a, 273b, 273d, 285, 286, 288, 288.1, 288a, or 289 of the Penal Code, who sustains emotional injury shall be presumed to have sustained physical injury.

(c) "Crime" shall mean a crime or public offense as defined in Section 15 of the Penal Code which results in injury to a resident of this state, including such a crime or public offense, wherever it may take place, when the resident is temporarily absent from the state. No act involving the operation of a motor vehicle, aircraft, or water vehicle which results in injury or death shall constitute a crime for the purposes of this article, except that a crime shall include any of the following:

(1) Injury or death intentionally inflicted through the use of a motor vehicle, aircraft, or water vehicle.

(2) Injury or death caused by a driver in violation of Section 20001, 23152, or 23153 of the Vehicle Code.

(3) Injury or death caused by a driver of a motor vehicle in the immediate act of fleeing the scene of a crime in which he or she knowingly and willingly participated.

(d) "Pecuniary loss" shall mean any expenses for which the victim has not and will not be reimbursed from any other source. Losses shall include all of the following:

(1) The amount of medical or medical related expense, including psychological or psychiatric expenses, and including, but not limited to, eyeglasses, hearing aids, dentures, or any prosthetic device taken, lost, or destroyed during the commission of the crime, or the use of which became necessary as a direct result of the crime.

(2) The amount of mental health counseling related expenses which became necessary as a direct result of the crime. These counseling services may be provided by a person licensed as a clinical social worker or a person licensed as a marriage, family, and child counselor practicing within the scope of licensure, or within the scope of his or her practice acts.

(3) The loss of income or support that the victim has incurred or will incur as a direct result of an injury or death in an amount of more than one hundred dollars ($100) or equal to 20 percent or more of the victims' net monthly income, whichever is less, except that in the case of persons on fixed incomes from retirement or disability who apply for assistance under this article, there shall be no minimum loss requirement.

(4) Pecuniary loss also includes nonmedical remedial care and treatment rendered in accordance with a religious method of healing recognized by state law.

(e) "Board" shall mean the State Board of Control.

(f) "Victim centers" shall mean those centers as specified in Section 13835.2 of the Penal Code.

This section shall become operative on January 1, 1990.

SEC. 7. Sections 5 and 6 of this bill incorporate amendments to Section 13960 of the Government Code proposed by both this bill and SB 1331. They shall only become operative if (1) both bills are enacted and become effective on January 1, 1986, (2) each bill amends Section 13960 of the Government Code, and (3) this bill is enacted after SB 1331, in which case Sections 3 and 4 of this bill shall not become operative.

CHAPTER 1131

An act to amend Sections 8950, 8951, 8952, 8953, and 8954 of, to add Sections 8952.5, 8953.5, 8953.7, 8957, 8958, and 8959 to, to repeal and add Sections 8955 and 8956 of, and to repeal Chapter 7 (commencing with Section 8950) of Part 6 of, the Education Code, relating to arts education, and making an appropriation therefor.

[Approved by Governor September 28, 1985 Filed with Secretary of State September 28, 1985]

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

SECTION 1. Section 8950 of the Education Code is amended to read:

8950. The Legislature finds and declares that the arts and entertainment industries constitute the third largest business sector in the state, and that it is within the interests of the people of the state to preserve the artistic and economic benefits which are derived from these major industries through the establishment of a multidisciplinary arts training program which will enable artistically gifted and talented students to receive intensive training in the arts. It is the intent of the Legislature that the California State Summer School for the Arts be established to provide a training ground for future artists who may wish to study and practice the arts, or to pursue careers in the major performing arts companies and the

commercial and fine arts institutions in California.

SEC. 2. Section 8951 of the Education Code is amended to read:

8951. As used in this chapter, "arts" includes, but is not limited to, all of the following: dance; drama; music; folk art; creative writing; visual arts, including painting, sculpture, photography, and craft arts; design, including graphic arts, computer graphics, and costume design; film; and video.

SEC. 3. Section 8952 of the Education Code is amended to read:

8952. (a) The California Arts Council and the State Department of Education shall establish a 24-member California State Summer School for the Arts Advisory Council. Representatives of the advisory council shall be chosen from eight geographic regions established by the California Arts Council and the State Department of Education. The membership of the advisory council shall be broadly representative of the arts and educational leadership and the socioeconomic and ethnic diversity of the state, and shall include members of organizations comprised of arts educators, school administrators, visual and performing artists, representatives of various arts institutions and state agencies, including, but not limited to, the California Arts Council, the State Board of Education, foundations, corporations, commercial arts industries, and distinguished citizens of the state.

(b) The advisory council shall be the primary recommending body in matters of policy and procedure, including, but not limited to, the structure, administration, private financing, and implementation of the California State Summer School for the Arts.

(c) Notwithstanding the provisions of Section 11030 of the Government Code, the reimbursement which shall be made available to members of the California State Summer School for the Arts Advisory Council for actual necessary traveling expenses shall be limited to an amount not to exceed fifteen thousand dollars ($15,000) in each fiscal year.

(d) The advisory council may create and designate subcommittees and advisory panels to carry out the requirements of this chapter.

(e) The advisory council shall cease to operate on July 1, 1986, except as continued or reestablished by the Trustees of the California State Summer School for the Arts.

SEC. 4. Section 8952.5 is added to the Education Code, to read:

8952.5. (a) The California State Summer School for the Arts shall be governed by an 11-member board of trustees, to be known as the Trustees of the California State Summer School for the Arts. The membership of the board shall be broadly representative of the cultural, ethnic, and geographic diversity of the state, and shall be composed of artists, arts educators, university professors and administrators, arts administrators, representatives of foundations, corporations, and commercial arts industries, and other distinguished citizens of the state.

(b) The membership of the board of trustees shall be as follows:

(1) Four members appointed by the Governor.

(2) One members appointed by the Speaker of the Assembly.

(3) One members appointed by the Senate Rules Committee.

(4) Two members appointed by the State Board of Education, one of whom shall be a current member of the State Board of Education.

(5) One member appointed by the California Arts Council, who shall be a current member of the council.

(6) One member appointed by the Trustees of the California State University.

(7) One member appointed by the Regents of the University of California.

(c) Each appointment shall be for a term of three years, and each member shall be eligible for reappointment.

(d) The board of trustees shall annually select a chairperson and vice chairperson, and shall annually hold not less than four meetings.

SEC. 5. Section 8953 of the Education Code is amended to read:

8953. The board of trustees shall adopt rules and regulations governing fees, applications, auditions, and admission procedures for the California State Summer School for the Arts, and any other procedure or operation necessary to implement the requirements of this chapter. The rules and regulations shall include, but not be limited to, all of the following:

(a) The requirement that pupils admitted to the California State Summer School for the Arts be broadly representative of the socioeconomic and ethnic diversity of the state.

(b) In order to be eligible for admission to the summer school, a pupil shall meet one of the following criteria:

(1) The pupil graduated, or will graduate, from junior high school at the end of the school year immediately preceding the summer school session for which he or she is applying.

(2) The pupil is currently enrolled in any of the grades 9 through 12.

(3) The pupil graduated from high school during the school year immediately preceding the summer school session for which he or she is applying.

(c) A pupil's participation in the summer school shall not be credited toward the pupil's completion of the course of study prescribed for graduation from high school, unless the pupil's regular school of attendance tenders payment, no later than the last day of the summer school session, for all application and other fees and expenses charged to the pupil of a kind that would not be charged to a pupil enrolled in the public school system.

SEC. 6. Section 8953.5 is added to the Education Code, to read:

8953.5. The board of trustees shall do all of the following:

(a) Provide for the operation and governance of the California State Summer School for the Arts.

(b) Appoint a person to fill the full-time, permanent, exempt position of Director of the California State Summer School for the

Arts. The director shall employ two assistants, one for program and one for administration, and any other necessary staff.

(c) Develop a statewide application and audition procedure. The procedure shall be implemented with the cooperation of the appropriate state and local agencies, including, but not limited to, school districts, the California State University, and the California Community Colleges.

The cost of the application and audition process shall be at least partially offset by charging each applicant a fee not to exceed twenty dollars ($20). Applicants who are unable to pay the fee shall petition the State Department of Education for a waiver, which shall be granted or denied pursuant to the rules and regulations adopted pursuant to Section 8953.

(d) Maintain an advisory committee or committees to assist the board in administering the summer school.

(e) Develop the curriculum of the summer school.

(f) Establish a nonprofit foundation to develop and receive private support for the summer school.

(g) Establish a permanent endowment fund for the summer school.

(h) Exercise any other powers necessary to carry out the purposes of this chapter.

SEC. 7. Section 8953.7 is added to the Education Code, to read:

8953.7. The State Department of Education shall assist the California State Summer School for the Arts by providing the following services:

(a) The development and administration of a process for the waiver of registration or program fees pursuant to this chapter.

(b) The distribution to all school districts in the state of notices and guidelines that describe the application procedure, site of the summer school, cost of participation, criteria for admission, and other pertinent information regarding the summer school.

SEC. 8. Section 8954 of the Education Code is amended to read:

8954. The period of instruction for the California State Summer School for the Arts shall be not less than four weeks and no more than six weeks in length. This section shall not be construed to prohibit holding two sessions per year, provided that the summer school shall commence no earlier than one week following the end of the regular school year, and shall be concluded no later than one week prior to the commencement of the next regular school year. The faculty of the school shall be comprised of both arts educators and professional artists.

SEC. 9. Section 8955 of the Education Code is repealed.

SEC. 10. Section 8955 is added to the Education Code, to read:

8955. (a) The faculty of the California State Summer School for the Arts shall be annually selected, subject to the final approval of the director of the school, by the board of trustees, upon consultation with a faculty selection panel convened by the board for that purpose. The faculty selection panel shall be composed of

professional artists and arts educators, selected to be broadly representative of the schools, institutions, arts organizations, artists, colleges, and universities located throughout the state. Members of the board of trustees may serve on the faculty selection panel, but shall comprise no more than one-third of any faculty selection panel.

(b) The faculty shall be comprised of professional artists and arts educators, and shall not be restricted to members of the current faculty of the host institution. The faculty shall be selected to be broadly representative of the socioeconomic and ethnic diversity of the state. Each faculty member shall be chosen for his or her excellence in artistic production, direction, or teaching ability. Notwithstanding any other provision of law, the faculty shall not be subject to credentialing requirements or any other restrictions upon eligibility for employment generally applicable to public school instructors, except for the requirement of obtaining a certificate of clearance from the Commission on Teacher Credentialing pursuant to Sections 44332.5, 44339, 44340, and 44341.

(c) The members of the faculty shall be paid on a contractual basis and shall not be considered as state employees.

SEC. 11. Section 8956 of the Education Code is repealed.

SEC. 12. Section 8956 is added to the Education Code, to read:

8956. (a) The site for the California State Summer School for the Arts shall be chosen annually by the board of trustees through a competitive request for proposal procedure. The criteria for selection shall include, but not be limited to, all of the following:

(1) Space requirements of the summer school, including residential space and appropriate facilities for all artistic disciplines offered by the summer school.

(2) Technical, administrative, and support services available to the summer school, submitted with an appropriate budget designating donated services and the costs to the summer school of having other services provided.

(3) Materials, supplies, and equipment available for the exclusive use of the summer school. Materials or equipment which may be used by the host institution during its regular sessions either shall be purchased by the host institution, which may charge the summer school a rental fee for the use of the materials or equipment, or purchased by the summer school, which shall charge the host institution a rental fee for the use of the materials or equipment during the institution's regular sessions.

(4) Operating funds and in-kind services.

(b) Private institutions, colleges, and universities, appropriate privately owned and operated facilities, and state facilities, including, but not limited to, facilities of the California State University and the University of California, may be used as the site for the summer school. A regional consortium of campuses and adjacent cultural centers operated by nonprofit organizations may be considered as a single site in the selection process.

SEC. 13. Section 8957 is added to the Education Code, to read:

8957. (a) No more than 50 percent of the actual costs of the California State Summer School for the Arts shall be paid with state funds. At least 50 percent of the actual costs of the summer school shall be met with fees and private support.

(b) The California State Summer School for the Arts may charge each student enrolled in the summer school a fee not to exceed seven hundred fifty dollars ($750) per session, to include room and board, for the 1986–87 fiscal year. The amount of this fee may be annually increased by the State Department of Education for the 1987–88 fiscal year, and for each fiscal year thereafter, by a percentage not to exceed the inflation percentage increase calculated under Section 42238.1. Students unable to pay all or part of the fee may petition the State Department of Education for a fee reduction or waiver. The State Department of Education, in conjunction with the board of trustees, shall promulgate rules and regulations regarding fee reduction and waivers, which shall ensure all of the following:

(1) That no talented applicant is denied admission solely because of inability to pay all or part of the fee.

(2) That any public announcement regarding the summer school program include notification that full scholarships are available, and information regarding the procedure for applying for a scholarship award.

(c) Private support for the California State Summer School for the Arts may be accepted by the board of trustees until such time as a nonprofit foundation may be established to receive private support. Private support may include, but not be limited to, direct grants to the summer school from private corporations or foundations, individual contributions, in-kind contributions, or fundraising benefits conducted by any entity.

SEC. 14. Section 8958 is added to the Education Code, to read:

8958. The board of trustees shall submit a report to the Legislature on or before January 1, 1988, regarding the progress and impact of the California State Summer School for the Arts program.

SEC. 15. Section 8959 is added to the Education Code, to read:

8959. This chapter shall remain in effect only until January 1, 1990, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1990, deletes or extends that date.

SEC. 16. The sum of twenty thousand dollars ($20,000) is hereby appropriated from the General Fund to the State Department of Education for allocation to the Trustees of the California State Summer School for the Arts for the purpose of reimbursing its members for their actual and necessary traveling expenses, and for purposes of meeting expenses and other planning expenses necessitated by this act.

SEC. 17. The sum of thirty thousand dollars ($30,000) is hereby appropriated from the General Fund to the State Department of Education in the 1985–86 fiscal year for purposes of planning the California State Summer School for the Arts program prior to its

commencement.

SEC. 18. (a) The sum of one million one hundred fifty thousand dollars ($1,150,000) shall be allocated by the State Department of Education to the Trustees of the California State Summer School for the Arts, for purposes of the California State Summer School for the Arts, from the state appropriations made pursuant to Section 42239 of the Education Code for the relevant fiscal year, as follows:

(1) For the 1986–87 fiscal year	$350,000
(2) For the 1987–88 fiscal year	400,000
(3) For the 1988–89 fiscal year	400,000

(b) In the event that, for any fiscal year, at least 50 percent of the actual costs of the California Summer School for the Arts is not met with fees and private support as required by Section 8957 of the Education Code, all state funds allocated to the school under this section for that fiscal year shall be returned to the State Department of Education for allocation pursuant to Section 42239 of the Education Code.

SEC. 19. State expenditures under this act shall be limited to the amounts appropriated specifically for the purposes of this act.

SEC. 20. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution 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 1132

An act to amend Sections 791.08 and 791.10 of the Insurance Code, relating to insurance.

[Approved by Governor September 28, 1985 Filed with Secretary of State September 28, 1985]

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

SECTION 1. Section 791.08 of the Insurance Code is amended to read:

791.08. (a) If any individual, after proper identification, submits a written request to an insurance institution, agent or insurance-support organization for access to recorded personal information about the individual which is reasonably described by the individual and reasonably locatable and retrievable by the insurance institution, agent or insurance-support organization, the insurance institution, agent or insurance-support organization shall within 30 business days from the date such request is received:

(1) Inform the individual of the nature and substance of such

recorded personal information in writing, by telephone or by other oral communication, whichever the insurance institution, agent or insurance-support organization prefers;

(2) Permit the individual to see and copy, in person, such recorded personal information pertaining to him or her or to obtain a copy of such recorded personal information by mail, whichever the individual prefers, unless such recorded personal information is in coded form, in which case an accurate translation in plain language shall be provided in writing;

(3) Disclose to the individual the identity, if recorded, of those persons to whom the insurance institution, agent or insurance-support organization has disclosed such personal information within two years prior to such request, and if the identity is not recorded, the names of those insurance institutions, agents, insurance-support organizations or other persons to whom such information is normally disclosed; and

(4) Provide the individual with a summary of the procedures by which he or she may request correction, amendment or deletion of recorded personal information.

(b) Any personal information provided pursuant to subdivision (a) above shall identify the source of the information if such source is an institutional source.

(c) Medical record information supplied by a medical care institution or medical professional and requested under subdivision (a), together with the identity of the medical professional or medical care institution which provided such information, shall be supplied either directly to the individual or to a medical professional designated by the individual and licensed to provide medical care with respect to the condition to which the information relates, whichever the individual prefers. Mental health record information shall be supplied directly to the individual, pursuant to this section, only with the approval of the qualified professional person with treatment responsibility for the condition to which the information relates. If it elects to disclose the information to a medical professional designated by the individual, the insurance institution, agent or insurance-support organization shall notify the individual, at the time of the disclosure, that it has provided the information to the medical professional.

(d) Except for personal information provided under Section 791.10, an insurance institution, agent or insurance-support organization may charge a reasonable fee to cover the costs incurred in providing a copy of recorded personal information to individuals.

(e) The obligations imposed by this section upon an insurance institution or agent may be satisfied by another insurance institution or agent authorized to act on its behalf. With respect to the copying and disclosure of recorded personal information pursuant to a request under subdivision (a), an insurance institution, agent or insurance-support organization may make arrangements with an insurance-support organization or a consumer reporting agency to

copy and disclose recorded personal information on its behalf.

(f) The rights granted to individuals in this section shall extend to all natural persons to the extent information about them is collected and maintained by an insurance institution, agent or insurance-support organization in connection with an insurance transaction. The rights granted to all natural persons by this subdivision shall not extend to information about them that relates to and is collected in connection with or in reasonable anticipation of a claim or civil or criminal proceeding involving them.

(g) For purposes of this section, the term "insurance-support organization" does not include "consumer reporting agency".

SEC. 2. Section 791.10 of the Insurance Code is amended to read:

791.10. (a) In the event of an adverse underwriting decision the insurance institution or agent responsible for the decision shall:

(1) Either provide the applicant, policyholder or individual proposed for coverage with the specific reason or reasons for the adverse underwriting decision in writing or advise such person that upon written request he or she may receive the specific reason or reasons in writing.

(2) Provide the applicant, policyholder or individual proposed for coverage with a summary of the rights established under subdivision (b) and Sections 791.08 and 791.09.

(b) Upon receipt of a written request within 90 business days from the date of the mailing of notice or other communication of an adverse underwriting decision to an applicant, policyholder or individual proposed for coverage, the insurance institution or agent shall furnish to such person within 21 business days from the date of receipt of such written request:

(1) The specific reason or reasons for the adverse underwriting decision, in writing, if such information was not initially furnished in writing pursuant to paragraph (1) of subdivision (a).

(2) The specific items of personal and privileged information that support those reasons; provided, however:

(A) The insurance institution or agent shall not be required to furnish specific items of privileged information if it has a reasonable suspicion, based upon specific information available for review by the commissioner, that the applicant, policyholder or individual proposed for coverage has engaged in criminal activity, fraud, material misrepresentation or material nondisclosure.

(B) Specific items of medical record information supplied by a medical care institution or medical professional shall be disclosed either directly to the individual about whom the information relates or to a medical professional designated by the individual and licensed to provide medical care with respect to the condition to which the information relates, whichever the individual prefers.

Mental health record information shall be supplied directly to the individual, pursuant to this subdivision, only with the approval of the qualified professional person with treatment responsibility for the condition to which the information relates.

(3) The names and addresses of the institutional sources that supplied the specific items of information given pursuant to paragraph (2) of subdivision (b); provided, however, that the identity of any medical professional or medical care institution shall be disclosed either directly to the individual or to the designated medical professional, whichever the individual prefers.

(c) The obligations imposed by this section upon an insurance institution or agent may be satisfied by another insurance institution or agent authorized to act on its behalf.

(d) When an adverse underwriting decision results solely from an oral request or inquiry, the explanation of reasons and summary of rights required by subdivision (a) may be given orally to the extent that such information is available.

CHAPTER 1133

An act to add Section 6106.7 to the Business and Professions Code, to amend the heading of Chapter 1 (commencing with Section 1500) of Part 6 of Division 2 of, to amend Sections 1500, 1510, 1511, 1512, 1513, 1514, 1515, 1515.5, 1516, 1517, 1518, 1519, 1520, 1521, 1522, 1523, 1524, 1525, 1526, 1527, 1528, 1530, 1530.5, 1531, 1532, 1533, 1535, 1536, 1537, 1538, 1539, 1540, 1541, 1542, 1543, 1544, 1546, and 1547 of, to add Sections 1531.5, 1535.5, and 1535.7 to, and to repeal Section 1545 of, the Labor Code, relating to athlete agents.

[Approved by Governor September 28, 1985. Filed with Secretary of State September 28, 1985]

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

SECTION 1. Section 6106.7 is added to the Business and Professions Code, to read:

6106.7. (a) It shall constitute cause for the imposition of discipline of an attorney within the meaning of this chapter for an attorney to negotiate a professional sport service contract, as defined by subdivision (d) of Section 1500 of the Labor Code, and in willful violation of subdivision (b) of Section 1531 of the Labor Code, to collect a fee that in any calendar year exceeds 10 percent of the compensation the athlete is receiving in that calendar year under the contract.

(b) Willful violation of Section 1530.5, subdivision (b) or (c) of Section 1531, or Section 1535.5, 1535.7, or 1539 of the Labor Code constitutes cause for the imposition of discipline of an attorney within the meaning of this chapter.

SEC. 2. The heading of Chapter 1 (commencing with Section 1500) of Part 6 of Division 2 of the Labor Code is amended to read:

CHAPTER 1. ATHLETE AGENTS

SEC. 3. Section 1500 of the Labor Code is amended to read:

1500. The following definitions shall govern the construction of this chapter:

(a) "Person" means any individual, company, corporation, association, partnership, or their agents or employees.

(b) "Athlete agent" means any person who, as an independent contractor, directly or indirectly, recruits or solicits any person to enter into any agent contract or professional sport services contract, or for a fee procures, offers, promises, or attempts to obtain employment for any person with a professional sport team or as a professional athlete.

"Athlete agent" does not include any employee or other representative of a professional sport team, and does not include any member of the State Bar of California when acting as legal counsel for any person.

(c) "Agent contract" means any contract or agreement pursuant to which a person authorizes or empowers an athlete agent to negotiate or solicit on behalf of the person with one or more professional sport teams for the employment of the person by one or more professional sport teams, or to negotiate or solicit on behalf of the person for the employment of the person as a professional athlete.

(d) "Professional sport services contract" means any contract or agreement pursuant to which a person is employed or agrees to render services as a player on a professional sport team or as a professional athlete.

SEC. 4. Section 1510 of the Labor Code is amended to read:

1510. No person shall engage in or carry on the occupation as an athlete agent without first registering with the Labor Commissioner.

SEC. 5. Section 1511 of the Labor Code is amended to read:

1511. A written application for registration shall be made to the Labor Commissioner on the form prescribed by the commissioner, and shall state all of the following:

(a) The name of the applicant and address of the applicant's residence.

(b) The street and number of the building or place where the business of the athlete agent is to be conducted.

(c) The business or occupation engaged in by the applicant for at least two years immediately preceding the date of application.

(d) The application for registration shall be accompanied by affidavits or certificates of completion of any and all formal training or practical experience in any one of the following specific areas: contracts; contract negotiation; complaint resolution; arbitration or civil resolution of contract disputes. The Labor Commissioner, in evaluating the applicant's qualifications, may consider any other relevant training, education, or experience to satisfy this requirement.

SEC. 6. Section 1512 of the Labor Code is amended to read:

1512. Upon receipt of an application for a registration, the Labor Commissioner may evaluate and investigate the education, training, experience, and character of the applicant, and may examine the premises designated in the application to verify it to be the principal place of business in which the applicant proposes to conduct business as an athlete agent.

SEC. 6.5. Section 1513 of the Labor Code is amended to read:

1513. The commissioner, upon proper notice and hearing, may refuse to grant a registration. The proceedings shall be conducted in accordance with Chapter 5 (commencing at Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the commissioner shall have all the power granted therein.

SEC. 7. Section 1514 of the Labor Code is amended to read:

1514. If registration of an athlete agent is revoked or suspended, reinstatement of the registration shall be pursuant to the procedures provided by Section 11522 of the Government Code.

SEC. 8. Section 1515 of the Labor Code is amended to read:

1515. A registration shall be valid from July 1 of one year through June 30 of the following year. Renewal shall require the filing of an application for renewal, and a renewal bond. The annual filing fee shall be paid by the athlete agent.

If the applicant or registrant desires, in addition, a branch office registration, he or she shall file an application in accordance with the requirements of the Labor Commissioner.

SEC. 9. Section 1515.5 of the Labor Code is amended to read:

1515.5. Whenever an application for registration or renewal is made, and application processing pursuant to this chapter has not been completed, the Labor Commissioner may, at his or her discretion, issue a temporary or provisional registration valid for a period not exceeding 90 days, and subject, where appropriate, to the automatic and summary revocation by the Labor Commissioner. Otherwise, the conditions for issuance or renewal shall meet the requirements of Section 1511.

SEC. 10. Section 1516 of the Labor Code is amended to read:

1516. All applications for registration or renewal shall state the names and addresses of all persons, except bona fide employees on stated salaries, financially interested either as partners, associates, or profit sharers, in the operation of the business of the athlete agent.

SEC. 11. Section 1517 of the Labor Code is amended to read:

1517. (a) A filing fee shall be paid to the Labor Commissioner at the time the application for issuance of an athlete agent registration is filed.

(b) In addition to the filing fee required for application for issuance of an athlete agent registration, every athlete agent shall pay to the Labor Commissioner annually at the time registration is obtained or renewed, a registration fee and a fee for each branch office maintained by the athlete agent in this state.

(c) A filing fee shall also be paid to the Labor Commissioner at the

time application for consent to the transfer or assignment of an athlete agent registration is made, but no fee shall be required upon the assignment or transfer of a registration.

The location of an athlete agent's office shall not be changed without the written consent of the Labor Commissioner.

SEC. 12. Section 1518 of the Labor Code is amended to read:

1518. The Labor Commissioner shall set the fees required by Section 1517 in the amount necessary to generate sufficient revenue to cover the costs of administration and enforcement of this chapter.

SEC. 13. Section 1519 of the Labor Code is amended to read:

1519. (a) An athlete agent shall also deposit with the Labor Commissioner, prior to the issuance or renewal of a registration, a surety bond in the penal sum of twenty-five thousand dollars ($25,000).

(b) For the purposes of this chapter, a certificate of deposit payable to the Labor Commissioner, or a savings account assigned to the Labor Commissioner, shall be considered equivalent to a surety bond, as provided in Section 995.710 of the Code of Civil Procedure, and shall be acceptable to the Labor Commissioner upon such terms and conditions as he or she may prescribe.

SEC. 14. Section 1520 of the Labor Code is amended to read:

1520. (a) The surety bonds shall be payable to the people of the State of California, and shall be conditioned that the person applying for the registration will comply with this chapter and will pay all sums due any individual or group of individuals when the person or his or her representative or agent has received such sums, and will pay all damages occasioned to any person by reason of intentional or unintentional misstatement, misrepresentation, fraud, deceit, or any unlawful or negligent acts or commissions or omissions of the registered athlete agent, or his or her representatives or employees, while acting within the scope of their employment.

(b) Nothing in this section shall be construed to limit the recovery of damages to the amount of the surety bond, certificate of deposit, or savings account.

SEC. 15. Section 1521 of the Labor Code is amended to read:

1521. If any registrant fails to file a new bond with the Labor Commissioner within 30 days after notice of cancellation by the surety of the bond required under Section 1519, the registration issued to the principal under the bond is suspended until such time as a new surety bond is filed. An athlete agent whose registration is suspended pursuant to this section shall not carry on business as an athlete agent during the period of the suspension.

SEC. 15.5. Section 1522 of the Labor Code is amended to read:

1522. All moneys collected for registrations and all fines collected for violations of the provisions of this chapter shall be paid into the State Treasury and credited to the General Fund.

SEC. 16. Section 1523 of the Labor Code is amended to read:

1523. Each registration shall contain all of the following:

(a) The name of the registrant.

(b) A designation of the city, street, and number of the place in which the registrant is authorized to carry on business as an athlete agent.

(c) The number and date of issuance of the registration.

SEC. 17. Section 1524 of the Labor Code is amended to read:

1524. No registration shall apply to any other than the person to whom it is issued nor any places other than those designated in the registration.

SEC. 18. Section 1525 of the Labor Code is amended to read:

1525. The Labor Commissioner may issue to an eligible person a certificate of convenience to conduct business as an athlete agent where the person registered to conduct the athlete agent business has died, or has been declared incompetent by the judgment of a court of competent jurisdiction, or has had a conservator appointed for his or her estate by a court of competent jurisdiction. The certificate of convenience may be denominated an estate certificate of convenience.

SEC. 19. Section 1526 of the Labor Code is amended to read:

1526. To be eligible for a certificate of convenience, a person shall be any one of the following:

(a) The executor or administrator of the estate of a deceased person registered to conduct the business of an athlete agent.

(b) If no executor or administrator has been appointed, the surviving spouse or heir otherwise entitled to conduct the business of the deceased registrant.

(c) The guardian of the estate of an incompetent person registered as an athlete agent, or the conservator appointed for the conservation of the estate of a person registered to conduct the business of an athlete agent.

The estate certificate of convenience shall continue in force for a period of not to exceed 90 days, and shall be renewable for such period as the Labor Commissioner may deem appropriate, pending the disposal of the athlete agent registration or the procurement of a new registration under the provisions of this chapter.

SEC. 20. Section 1527 of the Labor Code is amended to read:

1527. The Labor Commissioner may revoke or suspend any registration when any one of the following is shown:

(a) The registrant or his or her representative or employee has violated or failed to comply with any of the provisions of this chapter.

(b) The registrant fails to meet minimum requirements as set by the Labor Commissioner pursuant to subdivision (d) of Section 1511 and Section 1534.

(c) The conditions under which the registration was issued have changed or no longer exist.

SEC. 21. Section 1528 of the Labor Code is amended to read:

1528. Before revoking or suspending any registration, the Labor Commissioner shall afford the holder of the registration an opportunity to be heard in person or by counsel. The proceedings shall be conducted in accordance with Chapter 5 (commencing at

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. 22. Section 1530 of the Labor Code is amended to read:

1530. Any and all contracts to be utilized as agent contracts shall be on a form approved by the Labor Commissioner. This approval shall not be withheld as to any proposed form of agent contract unless the proposed form of agent contract is unfair, unjust, and oppressive to the person. Each form of agent contract, except under the conditions specified in Section 1544, shall contain an agreement by the agent to refer any controversy between the person and the agent relating to the terms of the agent contract to the Labor Commissioner for adjustment. There shall be printed on the face of the agent contract in prominent type the following: "This athlete agent is registered with the Labor Commissioner of the State of California. Registration does not imply approval by the Labor Commissioner of the terms and conditions of this contract or the competence of the athlete agent."

SEC. 22.5. Section 1530.5 of the Labor Code is amended to read:

1530.5. (a) The contract shall contain in close proximity to the signature of the athlete a notice in at least 10-point type stating that the athlete may jeopardize his or her standing as an amateur athlete by entering into the contract.

(b) This section shall also apply to any contract negotiated by a member of the State Bar of California which would be an agent contract if negotiated by an athlete agent.

SEC. 23. Section 1531 of the Labor Code is amended to read:

1531. (a) Every person engaged in the occupation as an athlete agent shall file with the Labor Commissioner a schedule of fees to be charged and collected in the conduct of that occupation. Changes in the schedule may be made from time to time, but no change shall become effective until seven days after the date of filing thereof with the Labor Commissioner.

(b) If a professional sport services contract is negotiated, no athlete agent shall collect a fee in any calendar year which exceeds 10 percent of the total compensation, direct or indirect, and no matter from whom received, the athlete is receiving in that calendar year under the contract. However, an athlete agent may require security that his or her future fees will be paid under the agreement with the athlete.

(c) Every agent contract shall describe the types of services to be performed and a schedule of the fees to be charged under the contract. This subdivision shall also apply to any contract negotiated by a member of the State Bar of California which would be an agent contract if negotiated by an athlete agent.

SEC. 24. Section 1531.5 is added to the Labor Code, to read:

1531.5. A trust fund shall be established when an athlete agent is the recipient of the player's salary. An athlete agent who receives any payment on behalf of the athlete shall immediately deposit same

in a trust fund account maintained by the athlete agent or other recognized depository.

SEC. 25. Section 1532 of the Labor Code is amended to read:

1532. Every athlete agent shall keep records approved by the Labor Commissioner, in which shall be entered all of the following:

(a) The name and address of each person employing the athlete agent.

(b) The amount of fee received from such person.

(c) Other information which the Labor Commissioner requires.

No athlete agent, or his or her representatives or employees, shall make any false entry in any such records. All records required by this section shall be kept for a period of seven years.

SEC. 26. Section 1533 of the Labor Code is amended to read:

1533. All books, records, and other papers kept pursuant to this chapter by any athlete agent shall be open at all reasonable hours to the inspection of the Labor Commissioner and his or her representatives. Every athlete agent shall furnish to the Labor Commissioner upon request a true copy of the books, records, and papers kept pursuant to this chapter, or any portion thereof, and shall make such reports as the Labor Commissioner prescribes.

SEC. 27. Section 1535 of the Labor Code is amended to read:

1535. No registrant shall sell, transfer, or give away any interest in or the right to participate in the profits of the athlete agent 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 five hundred dollars ($500) nor more than five thousand dollars ($5,000), or imprisonment for not more than 90 days, or both.

SEC. 27.5. Section 1535.5 is added to the Labor Code, to read:

1535.5. (a) No athlete agent shall have an ownership or financial interest in any entity which is directly involved in the same sport as a person with whom the athlete agent has entered an agent contract or for whom the athlete agent is attempting to negotiate a professional sports service contract.

(b) This section shall also apply to any member of the State Bar of California when advising athlete clients, when entering contracts which would be an agent contract if negotiated by an athlete agent, and when attempting to negotiate a professional sports service contract for a client.

SEC. 27.7. Section 1535.7 is added to the Labor Code, to read:

1535.7. If an athlete agent also advises a client regarding the investment of funds, the athlete agent shall disclose to the client any ownership interest the athlete agent has in any entity regarding which the athlete agent is giving advice to that client.

SEC. 28. Section 1536 of the Labor Code is amended to read:

1536. No athlete agent shall knowingly issue a contract containing any term or condition which, if complied with, would be in violation of law, or attempt to fill an order for help to be employed in violation of law.

SEC. 29. Section 1537 of the Labor Code is amended to read:

1537. No athlete agent shall publish or cause to be published any false, fraudulent, or misleading information, representation, notice, or advertisement. All advertisements of an athlete agent by means of cards, circulars, or signs, and in newspapers and other publications, and all letterheads, receipts, and blanks shall be printed and contain the registered name and address of the athlete agent and the words "athlete agent." No athlete agent shall give any false information or make any false promises or representations concerning any employment to any person.

SEC. 30. Section 1538 of the Labor Code is amended to read:

1538. No athlete agent shall knowingly secure employment for persons in any place where a strike, lockout, or other labor trouble exists, without notifying the person of those conditions.

SEC. 31. Section 1539 of the Labor Code is amended to read:

1539. (a) No athlete agent shall divide fees with a professional sports league or franchise, or its representative or employee.

(b) No athlete agent shall enter into any agreement whereby the athlete agent offers anything of value, including, but not limited to, the rendition of free or reduced price legal services, to any employee of a university or educational institution in return for the referral of any clients by that employee.

(c) No full-time employee of a union or players association connected with professional sports shall own or participate in any of the revenues of an athlete agent.

(d) This section shall also apply to any member of the State Bar of California.

SEC. 32. Section 1540 of the Labor Code is amended to read:

1540. In the event that an athlete agent collects a fee or expenses from a person for obtaining employment, and the person fails to procure that employment, or the person fails to be paid for that employment, the athlete agent shall, upon demand, repay to the person the fee and expenses so collected. Unless repayment is made within 48 hours after demand therefor, the athlete agent shall pay the person an additional sum equal to the amount of the fee.

SEC. 33. Section 1541 of the Labor Code is amended to read:

1541. All actions brought in any court against any athlete agent may be brought in the name of the person damaged upon the bond deposited with the state by the athlete agent, and may be transferred and assigned as other claims for damages. The amount of damages claimed by plaintiff, and not the penalty named in the bond, determines the jurisdiction of the court in which the action is brought.

SEC. 34. Section 1542 of the Labor Code is amended to read:

1542. When an athlete agent has departed from the state with intent to defraud creditors or to avoid service of summons in an action brought under this chapter, service shall be made upon the surety of an athlete agent, in accordance with the Code of Civil Procedure. A copy of the summons shall be mailed to the athlete

agent at the last known post office address of his or her residence and also at the place where the business of the athlete agent was conducted as shown by the records of the Labor Commissioner. Service is complete as to the athlete agent, after mailing, at the expiration of the time prescribed by the Code of Civil Procedure for service of summons in the particular court in which suit is brought.

SEC. 35. Section 1543 of the Labor Code is amended to read:

1543. In cases of controversy arising under this chapter the parties involved shall refer the matters in dispute to the Labor Commissioner, who shall hear and determine the same, subject to an appeal within 10 days after determination, to the court of competent jurisdiction where the same shall be heard de novo.

The Labor Commissioner may certify without a hearing that there is no controversy within the meaning of this section if he or she has by investigation established that there is no dispute as to the amount of the fee due. Service of the certification shall be made upon all parties concerned by registered or certified mail with return receipt requested and the certification shall become conclusive 10 days after the date of mailing if no objection has been filed with the Labor Commissioner during that period.

SEC. 36. Section 1544 of the Labor Code is amended to read:

1544. Notwithstanding Section 1543, a provision in a contract providing for the decision by arbitration of any controversy under the contract or as to its existence, validity, construction, performance, nonperformance, breach, operation, continuance, or termination, shall be valid if all of the following occur:

(a) The provision is contained in a contract between an athlete agent and a person for whom the athlete agent under the contract undertakes to endeavor to secure employment.

(b) The provision is inserted in the contract pursuant to any rule, regulation, or contract of a bona fide labor union regulating the relations of its members to an athlete agent.

(c) The contract provides for reasonable notice to the Labor Commissioner of the time and place of all arbitration hearings.

(d) The contract provides that the Labor Commissioner or his or her authorized representative has the right to attend all arbitration hearings.

Except as otherwise provided in this section, any such arbitration shall be governed by the provisions of Title 9 (commencing with Section 1280) of Part 3 of the Code of Civil Procedure.

If there is such an arbitration provision in a contract, the contract need not provide that the athlete agent agrees to refer any controversy between the person and the athlete agent regarding the terms of the contract to the Labor Commissioner for adjustment, and Section 1543 shall not apply to controversies pertaining to the contract.

A provision in a contract providing for the decision by arbitration of any controversy arising under this chapter which does not meet the requirements of this section is not made valid by Section 1281 of

the Code of Civil Procedure.

SEC. 36.5. Section 1545 of the Labor Code is repealed.

SEC. 37. Section 1546 of the Labor Code is amended to read:

1546. Any agent contract which is negotiated by any athlete agent who has failed to comply with Section 1510 is void and unenforceable.

SEC. 38. Section 1547 of the Labor Code is amended to read:

1547. 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 thousand dollars ($1,000) or imprisonment for a period of not more than 90 days, or both.

SEC. 39. No reimbursement is required by this act pursuant to 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 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 1134

An act to amend Sections 6715, 6726, 6726.1, 6726.2, 6726.3, 6726.4, 6735, 6751, 6753, 6755, 6762, 6764, 6796, and 6796.3 of, and to add Sections 6755.1, 6755.2, 6795.1, 6796.5, and 6796.6 to, of the Business and Professions Code, relating to professional engineers.

[Approved by Governor September 28, 1985 Filed with Secretary of State September 28, 1985]

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

SECTION 1. Section 6715 of the Business and Professions Code is amended to read:

6715. The executive officer shall keep a complete record of all applications for registration and the board's action thereon and, once every two years, shall prepare a roster showing the names and addresses of all registered professional engineers, and the names and addresses of the holders of all delinquent certificates of registration and certificates of authority. Between July 1 and December 1 in each year, except the year in which the roster is prepared, the executive officer shall prepare a supplemental roster showing changes in and additions to the roster.

A copy of the roster and the supplemental roster shall be filed with the Secretary of State. Copies of each shall be available on application to the executive officer, at the price per copy fixed by the board.

SEC. 1.2. Section 6726 of the Business and Professions Code is amended to read:

6726. The board may establish one or more technical advisory committees to advise and assist the board with respect to the

following:

(1) Application review and verification for any level of registration, licensure, authority, or title.

(2) Evaluation and investigation of potential violations of the act.

(3) Amendment, repeal, adoption, or revision of board rules, regulations, policies, and procedures.

SEC. 1.3. Section 6726.1 of the Business and Professions Code is amended to read:

6726.1. Each member of each technical advisory committee shall be appointed by the board and shall serve at the pleasure of the board. Each committee shall be composed of no more than five members.

SEC. 1.4. Section 6726.2 of the Business and Professions Code is amended to read:

6726.2. Except as provided in subdivision (c) of Section 6736.1, each member of each technical advisory committee shall be an expert in the branch of engineering within the committee's jurisdiction and shall be registered under this chapter.

SEC. 1.5. Section 6726.3 of the Business and Professions Code is amended to read:

6726.3. All the members of each technical advisory committee shall serve without compensation but shall receive per diem and expenses as provided in Section 103.

SEC. 1.6. Section 6726.4 of the Business and Professions Code is amended to read:

6726.4. Each member of each technical advisory committee shall be granted the same immunity as is granted to a public employee pursuant to Article 3 (commencing with Section 820) of Chapter 1 of Part 2 of Division 3.6 of Title 1 of the Government Code.

SEC. 2. Section 6735 of the Business and Professions Code is amended to read:

6735. All civil engineering plans, specifications, reports or documents shall be prepared by a registered civil engineer or by a subordinate under his or her direction, and shall be signed by him or her to indicate his or her responsibility for them. In addition to the signature, all final civil engineering plans, specifications, reports, or documents shall bear the seal or stamp of the registrant, and the expiration date of the certificate or authority. The registered civil engineer shall use together with his or her signature or seal, the title "civil engineer" or, if he or she has the authority, the title "structural engineer" or, if he or she has the authority, the title "soil engineer."

SEC. 3. Section 6751 of the Business and Professions Code is amended to read:

6751. (a) The applicant for certification as an engineer-in-training shall comply with all of the following:

(1) Not have committed acts or crimes constituting grounds for denial of registration under Section 480.

(2) Successfully pass the first division of the examination. The applicant shall be eligible to sit for the first division of the

examination after satisfactory completion of three years or more of college or university education in a board approved engineering curriculum or after completion of three years or more of board approved experience.

The board need not verify the applicant's eligibility other than to require the applicant to sign a statement of eligibility on the application form.

(b) The applicant for registration as a professional engineer shall comply with all of the following:

(1) Not have committed acts or crimes constituting grounds for denial of registration under Section 480.

(2) Except as provided in Section 6767, furnish evidence of six years or more of qualifying experience in engineering work satisfactory to the board evidencing that the applicant is competent to practice the character of engineering in the branch for which he or she is applying for registration, and successfully pass the second division of the examination.

(3) The applicant for the second division of the examination shall successfully pass the first division examination or shall be exempt therefrom.

SEC. 3.5. Section 6751 of the Business and Professions Code is amended to read:

6751. (a) The applicant for certification as an engineer-in-training shall comply with all of the following:

(1) Not have committed acts or crimes constituting grounds for denial of registration under Section 480.

(2) Successfully pass the first division of the examination. The applicant shall be eligible to sit for the first division of the examination after satisfactory completion of three years or more of college or university education in a board-approved engineering curriculum or after completion of three years or more of board-approved experience.

The board need not verify the applicant's eligibility other than to require the applicant to sign a statement of eligibility on the application form.

(b) The applicant for registration as a professional engineer shall comply with all of the following:

(1) Not have committed acts or crimes constituting grounds for denial of registration under Section 480.

(2) Furnish evidence of six years or more of qualifying experience in engineering work satisfactory to the board evidencing that the applicant is competent to practice the character of engineering in the branch for which he or she is applying for registration, and successfully pass the second division of the examination.

(3) The applicant for the second division of the examination shall successfully pass the first division examination or shall be exempt therefrom.

SEC. 4. Section 6753 of the Business and Professions Code is amended to read:

6753. With respect to applicants for registration as professional engineers, the board:

(a) Shall give credit as qualifying experience of four years, for graduation with an engineering degree from a college or university the curriculum of which has been approved by the board.

(b) May at its discretion give credit as qualifying experience up to a maximum of two years, for graduation with an engineering degree from a nonapproved engineering curriculum or graduation with an engineering technology degree in an approved engineering technology curriculum.

(c) May at its discretion give credit as qualifying experience of up to one-half year, for each year of successfully completed study of undergraduate education in an engineering curriculum up to a maximum of four years credit. A year of study of undergraduate education shall be at least 30 semester units or 45 quarter units.

(d) May at its discretion give credit as qualifying experience not in excess of one year, for satisfactory postgraduate work in a school of engineering with a board approved postgraduate curriculum.

(e) May at its discretion give credit as qualifying experience for engineering teaching, not in excess of one year, if of a character satisfactory to the board.

SEC. 5. Section 6755 of the Business and Professions Code is amended to read:

6755. (a) Examination duration and composition shall be designed to conform to the following general principle: The first division of the examination shall test the applicant's knowledge of appropriate fundamental engineering subjects, including mathematics and the basic sciences; the second division of the examination shall test the applicant's ability to apply his or her knowledge and experience and to assume responsible charge in the professional practice of the branch of engineering in which the applicant is being examined.

(b) The applicant for the second division of the examination shall have successfully passed the first division examination or shall be exempt therefrom

(c) The board may by rule provide for a waiver of the first division of the examination for applicants whose education and experience qualifications substantially exceed the requirements of Section 6751.

(d) The board may by rule provide for a waiver of the second division of the examination for persons eminently qualified for registration in this state by virtue of their standing in the engineering community, their years of experience, and those other qualifications as the board deems appropriate.

SEC. 6. Section 6755.1 is added to the Business and Professions Code, to read:

6755.1. The second division of the examination for registration as a professional engineer shall include questions to test the applicant's knowledge of state laws and the board's rules and regulations. The second division of the examination for registration as a civil engineer

shall also include questions to test the applicant's knowledge of seismic principles and engineering surveying principles as defined in Section 6731.1.

The board shall administer the questions to test the applicant's knowledge of seismic principles and engineering surveying principles as a separate part of the second division of the examination for registration as a civil engineer.

SEC. 7. Section 6755.2 is added to the Business and Professions Code, to read:

6755.2. The board shall prepare and distribute to applicants for the second division of the examination, a plain language pamphlet describing the important laws and the board's rules and regulations regulating the practice of professional engineering in the state. That portion of the second division of the examination for registration as a professional engineer, testing the applicant's knowledge of state laws and the board's rules and regulations, shall be based upon the information contained in the pamphlet prepared by the board.

The board shall administer the test on state laws and board rules regulating the practice of professional engineering in this state as a separate part of the second division of the examination for registration as a professional engineer.

SEC. 8. Section 6762 of the Business and Professions Code is amended to read:

6762. Any applicant who has passed the second division examination and has otherwise qualified hereunder as a professional engineer, shall have a certificate of registration issued to him or her as a professional engineer in the particular branch for which he or she is found qualified.

SEC. 9. Section 6764 of the Business and Professions Code is amended to read:

6764. Each professional engineer registered under this chapter shall, upon registration, obtain a seal or stamp of a design authorized by the board bearing the registrant's name, number of his or her certificate or authority, the legend "professional engineer" and the designation of the particular branch or authority in which he or she is registered, and may bear the expiration date of the certificate or authority.

SEC. 10. Section 6795.1 is added to the Business and Professions Code, to read:

6795.1. Within 60 to 90 days prior to the expiration of a certificate of registration or certificate of authority, the board shall mail to the registrant or authority holder a notice of the pending expiration. That notice shall include application forms for renewal. If there is no response by the expiration date, the board shall provide a second notice, by certified or registered mail, to the registrant's or authority holder's address.

SEC. 11. Section 6796 of the Business and Professions Code is amended to read:

6796. Except as otherwise provided in this article, certificates of

registration as a professional engineer, and certificates of authority 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 preceding regular renewal date. If the certificate is renewed more than 60 days after its expiration, the certificate holder, 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.

SEC. 12. Section 6796.3 of the Business and Professions Code is amended to read:

6796.3. Certificates of registration as a professional engineer, and certificates of authority to use the title "structural engineer," "soil engineer," or "consulting engineer" which are not renewed within five years after expiration may not be renewed, restored, reinstated, or reissued unless all the following apply:

(a) The registrant or certificate holder has not committed any acts or crimes constituting grounds for denial of registration or of a certificate under Section 480. If the registrant or certificate holder has been practicing with an expired license or delinquent license, the board may, in its discretion, deny the application for renewal, restoration, reinstatement, or reissuance, and may file a statement of issues, as described in Section 11504 of the Government Code, based upon the registrant's or certificate holder's practice with an expired or delinquent license. The board may also, in its discretion, renew, restore, reinstate, or reissue a license if the applicant has been practicing with an expired license or delinquent license, and the board may attach conditions to the renewal, restoration, reinstatement, or reissuance of the expired license or delinquent license.

(b) The registrant or certificate holder takes and passes the examination, if any, which would be required of him or her if he or she were then applying for the certificate for the first time, or otherwise establishes to the satisfaction of the board that, with due regard for the public interest, he or she is qualified to practice the branch of engineering in which he or she seeks renewal or reinstatement.

(c) The registrant or certificate holder pays all of the fees that would be required of him or her if he or she were then applying for the certificate for the first time.

The board may, by regulation, provide for the waiver or refund of all or any part of the application fee in those cases in which a certificate is issued without an examination pursuant to the provisions of this section.

SEC. 13. Section 6796.5 is added to the Business and Professions Code, to read:

6796.5. Once an expired or delinquent certificate of registration

or certificate of authority is renewed, restored, reinstated, or reissued pursuant to Section 6796 or 6796.3, all the following shall apply:

(a) The board shall continue to have full jurisdiction and authority over the registrant or certificate holder as if the registration or authority had not expired or become delinquent.

(b) The work performed by the registrant or certificate holder during a period of expiration or delinquency shall be deemed lawful and validly performed as to persons or entities other than the registrant or authority holder.

(c) The renewal, restoration, reinstatement, or reissuance of a registration or certificate of authority shall not affect liability issues regarding work performed during a period of expiration or delinquency, nor does the fact of performance during a period of expiration on delinquency affect liability issues.

SEC. 14. Section 6796.6 is added to the Business and Professions Code, to read:

6796.6. Notwithstanding any other provision of law, the board may adopt rules to provide an opportunity from January 1, 1986, to December 31, 1987, for current delinquent registrants to have their certificate of registration or certificate of authority renewed, restored, reinstated, or reissued. The board may provide a special fee including any appropriate penalties for such action. The board may require the taking of an examination if the applicant's certificate or authority is more than five years delinquent.

SEC. 15. Section 3.5 of this bill incorporates amendments to Section 6751 of the Business and Professions Code proposed by both this bill and SB 1030. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1986, (2) each bill amends Section 6751 of the Business and Professions Code, and (3) this bill is enacted after SB 1030, in which case Section 3 of this bill shall not become operative.

CHAPTER 1135

An act to amend Section 33334.3 of, and to add Sections 33334.6 and 33334.7 to, the Health and Safety Code, relating to housing.

[Approved by Governor September 28, 1985 Filed with Secretary of State September 28, 1985]

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

SECTION 1. Section 33334.3 of the Health and Safety Code is amended to read:

33334.3. (a) The funds which are required by Section 33334.2 or 33334.6 to be used for the purposes of increasing and improving the community's supply of low- and moderate-income housing shall be

held in a separate Low and Moderate Income Housing Fund until used.

(b) Any interest earned by the Low and Moderate Income Housing Fund shall accrue to the fund and may only be used in the manner prescribed in Section 33334.2.

(c) The moneys in the Low and Moderate Income Housing Fund shall be used to increase and improve the supply of low- and moderate-income housing within the territorial jurisdiction of the agency.

(d) It is the intent of the Legislature that the Low and Moderate Income Housing Fund be used to the maximum extent possible to defray the costs of production and improvement of low- and moderate-income housing and that the amount of money spent for planning and general administrative activities associated with the development or improvement of that housing not be disproportionate to the amount actually spent for the costs of production and improvement of that housing.

(e) "Housing," as used in this section, includes residential hotels, as defined in subdivision (k) of Section 37912.

SEC. 2. Section 33334.6 is added to the Health and Safety Code, to read:

33334.6. (a) The Legislature finds and declares that the provision of housing is itself a fundamental purpose of the Community Redevelopment Law and that a generally inadequate statewide supply of decent, safe, and sanitary housing affordable to persons and families of low or moderate income, as defined by Section 50093, threatens the accomplishment of the primary purposes of the Community Redevelopment Law, including job creation, attracting new private investments, and creating physical, economic, social, and environmental conditions to remove and prevent the recurrence of blight. The Legislature further finds and declares that the provision and improvement of affordable housing, as provided by Section 33334.2, outside of redevelopment project areas can be of direct benefit to those projects in assisting the accomplishment of project objectives whether or not those redevelopment projects provide for housing within the project area. The Legislature finds and determines that the provision of affordable housing by redevelopment agencies and the use of taxes allocated to the agency pursuant to subdivision (b) of Section 33670 is of statewide benefit and of particular benefit and assistance to all local governmental agencies in the areas where the housing is provided.

(b) This section is applicable to all project areas, or portions of project areas, which are not subject to Section 33334.2, except that a project area, or portion of a project area, for which a resolution was adopted pursuant to subdivision (i) of Section 33334.2 is subject to this section. Project areas subject to this section which are merged prior to, or on or after, January 1, 1986, are subject to the requirements of both this section and Section 33487. The deposit of taxes into the Low and Moderate Income Housing Fund in

compliance with either this section or Section 33487 shall satisfy the requirements of both sections in the year those taxes are deposited.

(c) Except as otherwise permitted by subdivisions (d) and (e), not less than 20 percent of the taxes allocated to the agency pursuant to Section 33670 from project areas specified in subdivision (b) for the 1985–86 fiscal year and each succeeding fiscal year shall be deposited into the Low and Moderate Income Housing Fund established pursuant to Section 33334.3 and used for the purposes set forth in Section 33334.2, unless the agency, by resolution, makes one of the findings described in paragraphs (1) to (3), inclusive, of subdivision (a) of Section 33334.2. Subdivisions (b) and (c) of Section 33334.2 apply if an agency makes any of those findings.

(d) In any fiscal year, the agency may deposit less than the amount required by subdivision (c) into the Low and Moderate Income Housing Fund if the agency finds that the difference between the amount deposited and the amount required by subdivision (c) is necessary to make payments under existing obligations of amounts due or required to be committed, set aside, or reserved by the agency during that fiscal year and which are used by the agency for that purpose. For purposes of this section, "existing obligations" means the principal of, and interest on, loans, moneys advanced to, or indebtedness (whether funded, refunded, assumed, or otherwise) incurred by the agency to finance or refinance, in whole or in part, any redevelopment project existing on, and created prior to January 1, 1986, and contained on the statement of existing obligations adopted pursuant to subdivision (f). Obligations incurred on or after January 1, 1986, shall be deemed existing obligations for purposes of this section if the net proceeds are used to refinance existing obligations contained on the statement.

(e) In each fiscal year prior to July 1, 1996, the agency may deposit less than the amount required by subdivisions (c) and (d) into the Low and Moderate Income Housing Fund if the agency finds that the deposit of less than the amount required by those subdivisions is necessary in order to provide for the orderly and timely completion of public and private projects, programs, or activities approved by the agency prior to January 1, 1986, which are contained on the statement of existing programs adopted pursuant to subdivision (f). Approval of these projects, programs, and activities means approval by the agency of written documents which demonstrate an intent to implement a specific project, program, or activity and is not limited to final approval of a specific project, program, or activity.

(f) Any agency which deposits less than the amount required by subdivision (c) into the Low and Moderate Income Housing Fund pursuant to subdivision (d) or (e) shall adopt prior to September 1, 1986, by resolution, after a noticed public hearing, a statement of existing obligations or a statement of existing programs, or both.

(1) The agency shall prepare and submit the proposed statement to the legislative body and to the Department of Housing and Community Development prior to giving notice of the public

hearing. Notice of the time and place of the public hearing shall be transmitted to the Department of Housing and Community Development at least 15 days prior to the public hearing and notice of the time and place of the public hearing shall be published in a newspaper of general circulation in the community once a week for at least two successive weeks prior to the public hearing. The legislative body shall maintain a record of the public hearing.

(2) A copy of the resolution adopted by the agency, together with any amendments to the statement of the agency, shall be transmitted to the Department of Housing and Community Development within 10 days following adoption of the resolution by the agency.

(3) A statement of existing obligations shall describe each existing obligation and, based upon the best available information, as determined by the agency, list the total amount of the existing obligation, the annual payments required to be made by the agency pursuant to the existing obligation, and the date the existing obligation will be discharged in full.

(4) A statement of existing programs shall list the specific public and private projects, programs, or activities approved prior to January 1, 1986, which are necessary for the orderly completion of the redevelopment plan as it existed on January 1, 1986. No project, program, or activity shall be included on the statement of existing programs unless written evidence of the existence and approval of the project, program, or activity prior to January 1, 1986, is attached to the statement of existing programs.

(g) If, pursuant to subdivision (d) or (e), the agency deposits less than 20 percent of the taxes allocated to the agency pursuant to Section 33670 in any fiscal year in the Low and Moderate Income Housing Fund, the agency may adopt a resolution declaring the existence of a deficit in that fund in an amount equal to the difference between 20 percent of the taxes allocated to the agency pursuant to Section 33670 for each affected project and the amount deposited that year. If the agency adopts that resolution, the agency shall also adopt a plan to eliminate the deficit in subsequent years as determined by the agency.

(h) The obligations imposed by this section, including deficits, if any, created under this section, are hereby declared to be an indebtedness of the redevelopment project to which they relate, payable from taxes allocated to the agency pursuant to Section 33670, and shall constitute an indebtedness of the agency with respect to the redevelopment project until paid in full.

(i) In any litigation to challenge or attack a statement of existing obligations, the decision by the agency after the public hearing to include an existing obligation on the statement of existing obligations, or the decision by the agency after the public hearing to include a project, program, or activity on the statement of existing programs, the court shall uphold the action of the agency unless the court finds that the agency has abused its discretion. The Legislature finds and declares that this standard of review is necessary in order

to protect against the possible impairment of existing obligations, programs, and activities because agencies with project areas adopted prior to January 1, 1977, have incurred existing obligations and have adopted projects, programs, and activities with the authority to receive and pledge the entire allocation of funds authorized by Section 33670.

SEC. 3. Section 33334.7 is added to the Health and Safety Code, to read:

33334.7. Programs to assist or develop low- and moderate-income housing pursuant to Sections 33334.2, 33334.3, 33334.6, 33413, and 33449 shall be entitled to priority consideration for assistance in housing programs administered by the California Housing Finance Agency, the Department of Housing and Community Development, and other state agencies and departments, if those agencies or departments determine that the housing is otherwise eligible for assistance under a particular program.

SEC. 4. Reimbursement to local agencies and school districts for costs mandated by the state pursuant to this act shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code and, if the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), shall be made from the State Mandates Claims Fund.

CHAPTER 1136

An act to amend Section 11713 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 28, 1985 Filed with Secretary of State September 28, 1985]

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

SECTION 1. 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.

(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 the 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 salesperson 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, or to fail to willfully notify the department by mail within 10 days of the employment or termination of employment of a salesperson.

(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 or her 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.

SEC. 2. No reimbursement is required by this act pursuant to 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 incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1137

An act to amend Section 10800 of the Health and Safety Code, relating to health, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1985 Filed with Secretary of State September 28, 1985]

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

SECTION 1. Section 10800 of the Health and Safety Code is amended to read:

10800. The Legislature hereby finds and declares that birth defects, stillbirths, and miscarriages represent problems of public health importance about which too little is known; that such conditions lead to severe mental anguish on the part of parents and relatives and frequently to high medical care costs; and that a system to obtain more information about these conditions could result in development of preventive measures to decrease their incidence in the future. Therefore, it is the intent of the Legislature in enacting this section to accomplish all of the following:

(a) To expand the program of birth defects monitoring.

(b) To provide information on the incidence and trends of birth defects, stillbirths, and miscarriages.

(c) To provide information to determine whether environmental hazards are associated with birth defects, stillbirths, and miscarriages.

(d) To provide information as to other possible causes of birth defects, stillbirths, and miscarriages.

(e) To develop prevention strategies for reducing the incidence of birth defects, stillbirths, and miscarriages.

SEC. 2. The sum of one million dollars ($1,000,000) is hereby

appropriated from the General Fund to the State Department of Health Services for the last eight months of the 1985–86 fiscal year for purposes of implementing Division 9.5 (commencing with Section 10800) of the Health and Safety Code to expand the birth defects monitoring program to the Counties of Fresno, Sacramento, Merced, Monterey, Santa Cruz, Yolo, Stanislaus, Tulare, Napa, and San Joaquin.

SEC. 3. It is the intent of the Legislature that the implementation of the expansion described in Section 2 and plans for future expansion be evaluated by the Task Force on Expansion of the Birth Defects Monitoring Program. It is the intent of the Legislature that funding for the birth defects monitoring program in future years be through the normal budgetary process.

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 the funding for the California Birth Defects Monitoring Program to be synchronized with the fiscal year and in order for birth defects monitoring to begin in the Counties of Fresno, Sacramento, Merced, Monterey, Santa Cruz, Yolo, Stanislaus, Tulare, Napa, and San Joaquin, as soon as possible, it is necessary for this act to take effect immediately.

CHAPTER 1138

An act to amend Section 9884.6 of the Business and Professions Code, and to add Chapter 6 (commencing with Section 44200) to Part 5 of Division 26 of the Health and Safety Code, relating to air pollution, and making an appropriation therefor.

[Approved by Governor September 28, 1985 Filed with Secretary of State September 28, 1985]

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

SECTION 1. Section 9884.6 of the Business and Professions Code is amended to read:

9884.6. (a) It is unlawful for any person to be an automotive repair dealer unless that person has registered in accordance with this chapter and unless that registration is currently valid.

(b) A person who, for compensation, adjusts, installs, or tests retrofit systems for purposes of Chapter 6 (commencing with Section 44200) of Part 5 of Division 26 of the Health and Safety Code is an automotive repair dealer for purposes of this chapter.

SEC. 2. Chapter 6 (commencing with Section 44200) is added to Part 5 of Division 26 of the Health and Safety Code, to read:

CHAPTER 6. DIRECT IMPORT USED MOTOR VEHICLES

44200. For purposes of this chapter, "direct import used motor vehicle" means a 1975 or later model-year light-duty motor vehicle not originally intended by the manufacturer for sale in the United States which is at least two years old and was not certified by the state board pursuant to Article 1 (commencing with Section 43100) of Chapter 2.

For the purposes of this subdivision, the age of a motor vehicle shall be determined by the following, in descending order of preference:

(a) From the first calendar day of the model year as indicated in the vehicle identification number.

(b) From the last calendar day of the month the vehicle was delivered by the manufacturer as shown on the foreign title document.

(c) From January 1 of the same calendar year as the model year shown on the foreign title document.

(d) From the last calendar day of the month the foreign title document was issued.

44201. The state board shall adopt, by regulation, a certification program for direct import used motor vehicles. The state board shall issue a certificate of conformance to each direct import used motor vehicle which meets the requirements of this program.

44202. A direct import used motor vehicle which was not registered in this state prior to the adoption of regulations adopted pursuant to Section 44201, may not be registered in this state unless it has received a certificate of conformance from the state board, except as provided in Section 44210.

44203. The certification program established pursuant to Section 44201 shall require all of the following components:

(a) A test of the vehicle's emissions performed at a laboratory licensed by the state board.

(b) A determination that the emissions of the vehicle meet applicable emission standards adopted by the state board.

(c) Any vehicle labelling and description of any emissions-related modifications to the vehicle that the state board finds appropriate to assure that the emission-related system of the vehicle can be inspected, serviced, and repaired successfully throughout the state.

(d) Any other requirements the board may determine appropriate to assure the direct import used motor vehicle will continue to comply with emission standards in use, except that no requirement may be established to warrant the emissions control system or to recall vehicles which exhibit a defective emission control system subsequent to receiving a valid certificate of conformance.

44204. The state board may perform a confirmatory test of the vehicle's emissions prior to issuance of a certificate of conformity.

44205. The state board shall adopt regulations prescribing the requirements for any laboratory seeking approval as a state-licensed

laboratory for purposes of this chapter. The requirements shall include, but not be limited to, all of the following:

(a) An agreement to random inspections of the facility and any vehicles on the premises by the state board or its designee.

(b) Recordkeeping for testing and quality control.

(c) An agreement to perform correlation testing at the request of the state board.

(d) An agreement to hold vehicles at the laboratory for up to 10 calendar days for the purpose of inspection and confirmatory testing upon request of the state board.

44207. A laboratory's license may be suspended or revoked by the state board, after a hearing, for failure to meet the requirements of licensing established in Section 44205 or for other cause specified by the state board in regulation. The state board shall adopt regulations governing the suspension, revocation, and reinstatement of the licenses.

44208. The state board may, by regulation, impose fees for the licensing of laboratories and for the issuance of certificates of conformity to recover the state board's costs, including enforcement costs, of administration of any program the state board may establish pursuant to this chapter.

44209. Any person who falsifies any test record or report which has been submitted to any other person, the department, or the state board pursuant to this chapter is subject to punishment by a fine of not less than one thousand dollars ($1,000) or more than five thousand dollars ($5,000), by imprisonment for not more than five years, or by both the fine and imprisonment.

44210. The requirements of Section 44202 do not apply to any motor vehicle having a certificate of conformity issued by the federal Environmental Protection Agency pursuant to the federal Clean Air Act (42 U.S.C. Section 7401, et seq.) and originally registered in another state by a person who was a resident of that state for at least one year prior to the original registration, who subsequently establishes residence in this state and who, upon registration of the vehicle in California, provides evidence satisfactory to the Department of Motor Vehicles of that previous residence and registration.

SEC. 3. The sum of one hundred thousand dollars ($100,000) is hereby appropriated from the General Fund to the State Air Resources Board for expenditure during the 1985–86 fiscal year to carry out its duties pursuant to Chapter 6 (commencing with Section 44200) of Part 5 of Division 26 of the Health and Safety Code.

SEC. 4. No reimbursement is required by this act pursuant to 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 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 1139

An act to amend Sections 2540, 2541, 2542, and 2560 of the Business and Professions Code, relating to contact lens dispensing.

[Approved by Governor September 28, 1985 Filed with Secretary of State September 28, 1985]

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

SECTION 1. Section 2540 of the Business and Professions Code is amended to read:

2540. No person other than a physician and surgeon or optometrist may measure the powers or range of human vision or determine the accommodative and refractive status of the human eye or the scope of its functions in general or prescribe ophthalmic or contact lenses, or plano contact lenses.

SEC. 2. Section 2541 of the Business and Professions Code is amended to read:

2541. A prescription lens is any device ordered by a physician and surgeon or optometrist, that alters or changes the visual powers of the human eye, including, but not limited to, ophthalmic and contact lenses. A prescription lens also includes a plano contact lens.

SEC. 3. Section 2542 of the Business and Professions Code is amended to read:

2542. A registered dispensing optician shall fit, adjust, or dispense contact lenses, including plano contact lenses, only on the valid prescription of a physician and surgeon or optometrist, and acting on the advice, direction, and responsibility of the physician and surgeon or optometrist. The optician shall also comply with the requirements of Section 2560. A registered dispensing optician shall not fit a contact lens or lenses, or a plano contact lens or lenses, unless the prescription specifically refers to and authorizes contact lenses. A registered dispensing optician shall not fit a generic type of contact lens or mode of wear for a contact lens contrary to the type or mode, if any, referred to in the prescription.

SEC. 4. Section 2560 of the Business and Professions Code is amended to read:

2560. No individual may fit and adjust contact lenses, including plano contact lenses, unless the registration requirement of Section 2550 is complied with, and unless (a) the individual is a duly registered contact lens dispenser as provided in Section 2561 or (b) the individual performs the fitting and adjusting under the direct responsibility and supervision of a duly registered contact lens dispenser who is then present on the registered premises. In no event shall a registered contact lens dispenser supervise more than three contact lens dispenser trainees. An individual shall not fit contact lenses as a trainee after acquiring five full years of experience in fitting contact lenses. After acquiring five full years of experience,

the trainee may fit contact lenses only as a registered contact lens dispenser as provided in Section 2561.

CHAPTER 1140

An act to amend Section 22790 of the Government Code, relating to health benefits.

[Approved by Governor September 28, 1985 Filed with Secretary of State September 28, 1985]

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

SECTION 1. Section 22790 of the Government Code is amended to read:

22790. The board may contract with carriers for basic health benefit plans, comprehensive benefit plans, and, for employees and annuitants who are also covered under basic plans, major medical plans or approve basic health benefit plans offered by employee organizations, provided that the carriers have operated successfully in the prepaid hospital and medical care field prior to the contracting for or approval thereof. Such plans shall include hospital benefits, surgical benefits, in-hospital medical benefits, outpatient benefits, obstetrical benefits, and may include other benefits including, but not limited to, benefits offered by a bona fide church, sect, denomination or organization whose principles include healing entirely by prayer or spiritual means. The board shall contract with a sufficient number of carriers and plans that provide chiropractic services so that every employee and annuitant shall have a reasonable opportunity to enroll in a plan that provides chiropractic services without prior referral by a physician. The board may contract with health maintenance organizations approved under Title XIII of the federal Public Health Services Act. The board shall approve any basic health benefit plan in existence on January 1, 1962, which meets the requirements of this part and the minimum standards and other rules and requirements prescribed by the board, and for which payroll deductions were authorized under Section 1151.

CHAPTER 1141

An act to amend Section 5080.20 of the Public Resources Code, relating to parks and recreation, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1985. Filed with Secretary of State September 28, 1985]

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

SECTION 1. Section 5080.20 of the Public Resources Code is amended to read:

5080.20. No contract, including a contract entered into on lands operated pursuant to an agreement entered into under Article 2 (commencing with Section 5080.30), which is expected to involve a total investment or estimated annual gross sales in excess of two hundred fifty thousand dollars ($250,000), may be advertised for bid, negotiated, renegotiated, or amended in any material respect unless and until all of the following requirements have been complied with:

(a) The commission has reviewed the proposed services, facilities, and location of the concession and determined that they meet the requirements of Sections 5001.9 and 5080.03 and are compatible with the classification of the unit in which the concession will be operated.

(b) The Legislature has reviewed and approved the proposed concession as part of the annual budget process or the requirements of subdivision (c) have been complied with. No proposed concession shall be submitted for review by the Legislature until the commission has made its determination pursuant to subdivision (a), unless deferring review by the Legislature would be adverse to the interests of the public, in which case the Legislature's review may precede the commission's determination.

(c) Following enactment of the Budget Bill, the board has determined that the proposed concession could not have been presented to the Legislature for review and approval in the course of its consideration of the Budget Bill, or the proposed concession was reviewed and approved but it is necessary to revise the terms of the invitation to bid or the contract in a material respect, and that it would be adverse to the interests of the public to defer that review and approval to a time when the Legislature next considers a Budget Bill. Upon making that determination, the board may review and approve the proposed concession, or any revision thereof, after giving at least 20 days' written notice to the Chairman of the Joint Legislative Budget Committee and to the chairmen of the fiscal and appropriate policy committees of its intended action. All actions taken by the board pursuant to this subdivision shall be reported to the Legislature in the next Governor's Budget.

(d) The proposed concession is accompanied with documentation sufficient to enable the Legislature, the commission, and the board, as the case may be, to ascertain whether the concession will conform to the requirements of this article and, as to the Legislature and the board, to evaluate fully all terms on which the concession is proposed to be let, including the rent and other returns anticipated to be received.

SEC. 2. (a) Notwithstanding subdivision (g) of Section 21191 of

the Public Resources Code, the sum of twenty-nine thousand five hundred dollars ($29,500) is hereby appropriated from the California Environmental License Plate Fund to the Department of Parks and Recreation for the Riverside-Chinatown archaeological project.

(b) None of the funds appropriated in this section may be disbursed unless and until the Director of Parks and Recreation determines that funds and in-kind services from nonstate sources in an amount at least equal to the amount appropriated in this section have been committed to the project for the 1985–86 fiscal year and that the County of Riverside has required that the Riverside-Chinatown Project be submitted for a determination of eligibility for nomination to the national register of historic places under the National Historic Preservation Act of 1966.

(c) Copies of all reports, memoranda, and analyses of artifacts financed with the funds appropriated in this section shall be furnished to the Office of Interpretive Services and the Office of Historic Preservation. Following receipt of the collection, the Riverside Municipal Museum shall make available representative, museum-quality artifacts to the Department of Parks and Recreation on a long-term loan for display at suitable places throughout California, including, particularly, places suitable for the interpretation of the history of the Chinese in California.

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 urgently needed park and recreation projects at Castaic Lake State Recreation Area and other locally operated units of the state park system may be developed at the earliest possible time, and to provide funding for the proper preservation and interpretation of fragile archaeological artifacts at the earliest opportunity, it is necessary that this act take effect immediately.

CHAPTER 1142

An act to amend Sections 1063 and 5003.1 of, and to add Section 5003.2 to, the Public Utilities Code, relating to carriers, and making an appropriation therefor.

[Approved by Governor September 28, 1985. Filed with Secretary of State September 28, 1985.]

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

SECTION 1. Section 1063 of the Public Utilities Code is amended to read:

1063. No common carrier shall begin to operate any motor vehicle, for the transportation of property for compensation on any

public highway in this state without first having obtained from the commission a certificate declaring that public convenience and necessity require that operation. No certificate shall be required of any highway common carrier as to the fixed termini between which, or the route over which, it was actually operating as a highway common carrier on July 26, 1917, and in good faith continuously thereafter, or for the performance of pickup, delivery, or transfer services by the carrier within the carrier's lawfully published pickup and delivery zones insofar as the pickup and delivery limits do not include territory in excess of three miles from the corporate limits of any city or three miles from the post office of any unincorporated point. Any right, privilege, franchise, or permit held, owned, or obtained by any common carrier may be sold, leased, transferred, or inherited as other property, only upon authorization by the commission. For purposes of this section, "public convenience and necessity," as it affects applications for new, or extentions of existing, cement carrier certificates, means that the applicant has met the criteria for a cement contract carrier permit in Section 3623.

No certificate shall be issued unless it has been shown that the applicant meets one of the following residence requirements: If an individual, the applicant has resided in the State of California for not less than 90 days next preceding the filing of the application. If a partnership, the partner having the largest percentage interest in the partnership has resided in the State of California continuously for not less than 90 days next preceding the filing of the application. If a corporation, the applicant shall be a domestic corporation or has qualified to transact business in the State of California as a foreign corporation at the time of filing the application.

SEC. 2. Section 5003.1 of the Public Utilities Code is amended to read:

5003.1. Every railroad corporation, express corporation and freight forwarder, as these terms are defined in Part 1 (commencing with Section 201) of Division 1, and every motor transportation broker, as defined in Section 4803, and every person or corporation owning or operating motor vehicles in the transportation of property for hire upon the public highways under the jurisdiction of the commission shall, between the first and 15th days of January, April, July, and October of each year, file with the commission a statement showing the gross operating revenue derived by that person or corporation from the transportation of property for the preceding three calendar months, and shall, at the time of filing the report, pay to the commission a fee of ten dollars ($10) for each quarter. Every express corporation, freight forwarder, motor transportation broker, and every person or corporation owning or operating motor vehicles in the transportation of property for hire upon the public highways under the jurisdiction of the commission shall, at the time of filing the report, pay to the commission a fee equal to one-third of 1 percent of the amount of the gross operating revenue, except as follows:

(a) For any particular fiscal year, the commission, with the approval of the Department of Finance, may fix the fee at less than one-third of 1 percent of that amount.

(b) The commission may increase the fee pursuant to subdivision (b) of Section 5003.2.

SEC. 3. Section 5003.2 is added to the Public Utilities Code, to read:

5003.2. (a) Notwithstanding Section 5003.1, the commission shall require every highway carrier otherwise subject to Section 5003.1 for whom the commission does not establish minimum rates, or require rates to be on file with the commission, to pay a fee equal to 1/10 of 1 percent of the amount of gross operating revenue. This reduced fee shall remain in effect from July 1, 1986, to June 30, 1987.

(b) From July 1, 1986, to June 30, 1987, the commission may raise the fee imposed by Section 5003.1 upon those persons and corporations subject to that section for whom the commission establishes minimum rates or requires rates to be on file, up to a maximum of one-half of 1 percent of gross operating revenue, if the commission decides this increase is necessary to maintain adequate financing during this period.

(c) From July 1, 1986, to June 30, 1987, the commission shall conduct a study to determine the actual costs to the commission for the services it is required to provide, or does provide, to highway carriers subject to Section 5003.1 for whom the commission does not establish minimum rates or require rates to be on file with the commission. After this study is complete, the commission, the Department of Finance, and representatives of the carrier industry shall assess the results of the study, to advise whether a permanent reduced fee for highway carriers should be established.

SEC. 4. The sum of seventy thousand dollars ($70,000) is hereby appropriated from the Transportation Rate Fund to the Public Utilities Commission for the 1986–87 fiscal year for the purpose of carrying out the changes made to Section 5003.1 of the Public Utilities Code by Section 1 of this act and for implementing Section 5003.2 of the Public Utilities Code.

SEC. 5. This act shall become operative on July 1, 1986.

CHAPTER 1143

An act to amend Section 977.2 of the Penal Code, relating to arraignments, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1985. Filed with Secretary of State September 28, 1985]

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

SECTION 1. Section 977.2 of the Penal Code is amended to read:

977.2. (a) (1) Notwithstanding Section 977, the Board of Supervisors of Contra Costa, Los Angeles, Orange, Riverside, San Diego, Santa Clara, or Shasta Counties, or any of them, with the approval of the presiding judge, the district attorney, and the public defender, may establish a pilot project. The project shall be developed in close consultation between the presiding judge, the district attorney, the public defender, and the sheriff, and shall not exceed four years in duration.

(2) The Board of Supervisors of San Bernardino County, with the approval of the presiding judge of the court, the supervising judge of any division of the court in which the project is to be conducted, the district attorney and the public defender may establish a pilot project. The project shall be developed in close consultation between the presiding judge, the supervising judge, the district attorney, the public defender, and the sheriff, and shall not exceed four years in duration.

(b) The project shall permit the initial arraignment in municipal or superior court of defendants held in any state, county, or local penal facility within the county on felony charges, except for those defendants who were indicted by a grand jury, to be conducted by two-way electronic audio video communication between the defendant and the courtroom in lieu of the physical presence of the defendant in the courtroom. The defendant may be accompanied by his or her attorney, and may enter a plea, during such an arraignment. The defendant shall have the right to make his or her plea while physically present in the courtroom if he or she so requests.

(c) Each county conducting a pilot project pursuant to this section shall submit reports to the Legislative Analyst and the Judicial Council no later than September 30 of each year. The report shall include the following data:

(1) The number of add-on pleas, and the number of cases disposed of, through the use of audio video arraignment.

(2) The number of defendants who refuse to sign the waiver of personal appearance and are transported to the courtroom to be physically present for the arraignment proceedings.

(3) The number and impact of add-on defendants arraigned.

(4) Initial costs and maintenance costs of the project.

(5) Cost savings, including transportation costs, over the previous method of arraignment.

(6) The impact of audio video arraignment on all participants in the procedures used under this section, including, but not limited to, security personnel, attorneys, judges, defendants, and court employees.

(7) Any other benefits or problems incurred.

(8) Any future plans for the project.

Other specific data for inclusion in the report may be specified by the Judicial Council.

(d) The Legislative Analyst shall review and summarize all data submitted by the counties and shall submit a report on the fiscal effects of this section along with any recommendations to the Legislature no later than December 1 of each year. The Judicial Council shall also review and summarize all data submitted by the counties and shall submit a report on the nonfiscal, policy consequences of this section along with any recommendations to the Legislature no later than December 1 of each year.

(e) Notwithstanding any other provision of this section, a judge may order a defendant's personal appearance in court for arraignment, and shall not pursuant to this section accept a plea of guilty or no contest from a defendant not physically in the courtroom.

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 achieve the maximum benefit from the experience gained during the operation of the pilot projects in question, it is necessary that this act take effect immediately.

CHAPTER 1144

An act to add Section 14005.75 to the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor September 28, 1985. Filed with Secretary of State September 28, 1985]

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

SECTION 1. Section 14005.75 is added to the Welfare and Institutions Code, to read:

14005.75. A person who is otherwise eligible for Medi-Cal benefits under either Section 14005.4 or 14005.7, except for income and resource eligibility, and who is receiving Medi-Cal services for the treatment of multiple sclerosis, shall continue to be eligible to receive benefits only for these services under Medi-Cal, provided that all other conditions of eligibility for the Medi-Cal program are met. These restricted benefits shall continue until such time as the person is eligible for, and receives, third party coverage for these treatments. However, restricted benefits under this section shall not continue for more than two years.

CHAPTER 1145

An act to add Chapter 4 (commencing with Section 99170) to Part 65 of the Education Code, relating to education, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1985. Filed with Secretary of State September 28, 1985]

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

SECTION 1. Chapter 4 (commencing with Section 99170) is added to Part 65 of the Education Code, to read:

CHAPTER 4. COMPREHENSIVE STUDENT PROGRESS STUDY

99170. The Legislature hereby recognizes all of the following:

(a) The proportion of students who complete their high school education has been declining, and the rate of completion is particularly low among the fastest growing subgroups in the population.

(b) The factors which contribute to the progressively lower high school graduation rates and the different graduation rates among subgroups are not well understood.

(c) California's secondary students are becoming less competitive compared with national standards of academic achievement. While this relatively lower level of academic preparation has been linked to course selection patterns and the amount of instruction received, the factors which influence course selection and other related variables affecting student performance are not well understood.

(d) The proportion of high school graduates eligible for enrollment in the state's public universities has declined since 1976. There are also significant differences in the rates of eligibility achievement of various subgroups, which are reflected in differential enrollment rates, resulting in certain ethnic groups continuing to be severely underrepresented in public universities.

(e) While the participation rate in postsecondary education remains relatively high, the rate of degree completion is relatively low in California. The consequences for both students and the state of so many students currently enrolling in college, only to drop out before completing their degrees, are not well understood.

(f) In light of the recent increase in the state's fiscal support for all levels of education, and the array of educational reform and improvement efforts being implemented at all levels of education, the Legislature needs to better understand the effect of these reforms and funding increases upon meeting the needs of both students and society. In addition, improved data on student persistence and educational quality will complement the work of the

Commission for the Review of the Master Plan for Higher Education.

99172. The California Postsecondary Education Commission, in cooperation with the State Department of Education and the public and private segments of higher education, shall develop a feasibility plan for a study to provide comprehensive information about the factors which affect students' progress through California's educational system, from elementary school through postgraduate education. The feasibility plan shall do all of the following:

(a) Recognize the need for the study to provide information regarding, but not limited to, all of the following factors:

(1) Student progress through elementary and secondary school, including an assessment of those elements of categorical aid programs which enhance pupil progress.

(2) The transition from secondary to postsecondary education or employment.

(3) Transfer among, and retention within, the various segments of postsecondary education, and completion of degree programs.

(b) Recognize the need for the study to examine those factors which cause or assist students to continue their education, and, alternatively, the factors which contribute to the interruption or termination of elementary, secondary, and postsecondary education.

(c) Recognize the need for the study to provide information about students, including their course selection patterns, and their demographic, socioeconomic, and academic performance characteristics.

(d) Delineate all of the following:

(1) The nature and size of the sample of students to be included in the study.

(2) The methods to be used in data collection.

(3) The frequency of data collection.

(4) A schedule for the implementation of the study.

(5) The estimated cost of implementation.

(e) Clearly state the responsibilities of the commission, the State Department of Education, and the segments of postsecondary education with regard to the study, including contribution to the estimated cost of its implementation.

(f) Identify any potential savings to be realized from the reduction of duplicate reporting requirements that the comprehensive study might permit.

99174. The objectives of the comprehensive study shall include, but not be limited to, all of the following:

(a) Improved understanding of the causes of differential attendance at all levels of education, to assist with the identification and evaluation of efforts to improve persistence towards obtaining a diploma, certificate, or degree.

(b) Improved understanding of differences among subgroups in course selection patterns, academic aspirations, and their subsequent influence on occupational choice and satisfaction.

(c) Improved understanding of the bridges and barriers

encountered by students as they progress through their education, with particular emphasis on those factors and programs which affect students' transition from secondary to postsecondary institutions and transfers between institutions and segments of postsecondary education.

99176. (a) The California Postsecondary Education Commission shall convene an intersegmental advisory committee to review the feasibility plan developed pursuant to Section 99172. The advisory committee shall be comprised of representatives of the State Department of Education, the Department of Finance, school districts, public and private postsecondary educational institutions, students enrolled in postsecondary educational institutions, business, industry, and the fiscal, education policy, and appropriate joint committees of the Legislature.

(b) The commission shall submit the feasibility plan to the Legislature on or before March 15, 1986.

SEC. 2. The sum of fifty thousand dollars ($50,000) is hereby appropriated from the General Fund to the California Postsecondary Education Commission for purposes of Chapter 4 (commencing with Section 99170) of Part 65 of the Education Code.

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

In order to authorize the California Postsecondary Education Commission to develop the feasibility plan for a comprehensive study on student progress at the earliest possible date, so that the commission may submit the feasibility plan to the Legislature by the March 15, 1986, deadline imposed by this act, it is necessary that this act take effect immediately.

CHAPTER 1146

An act relating to toxic gases, and making an appropriation therefor.

[Approved by Governor September 28, 1985. Filed with Secretary of State September 28, 1985]

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

SECTION 1. (a) The sum of one hundred thousand dollars ($100,000) is hereby appropriated from the General Fund to the State Air Resources Board for a study of the use and management of toxic gases and of accidental releases of toxic gases. The study shall be administered by the Santa Clara Fire Chiefs Association.

(b) Except as provided in subdivision (c), the study shall include, but is not limited to, the following:

(1) An evaluation of the feasibility and desirability of applying the standards that govern the transportation of nuclear materials to the transportation of toxic gases.

(2) The development of guidelines for public information programs on the hazards associated with accidental toxic gas releases and the risks associated with these accidental events.

(3) The development of model emergency response plans which local governments can use to respond to accidents involving the 15 most commonly used toxic gases in California.

(4) The preparation of training guidelines for public safety personnel responsible for enforcing the model ordinance drafted pursuant to paragraph (5) and for employees and management personnel employed at industrial facilities where toxic gases are stored and used.

(5) The drafting of a model ordinance which shall include, but is not limited to, the following:

(A) A definition of "toxic gas."

(B) Performance standards for systems that are intended to prevent the accidental release of toxic gases.

(C) The types of systems that are available or should be developed in order to meet the performance standards established pursuant to subparagraph (B).

(D) Permit requirements for the storage and use of toxic gases. Permit requirements shall be equivalent to, or more stringent than, the requirements established for a permit required under Section 25286 of the Health and Safety Code.

(E) Requirements for the labeling of containers used for the storage and transportation of toxic gases and storage area standards, including area entry protection, seismic safety requirements, product separation, accidental release monitoring, alarm systems, ventilation controls, and automatic fire protection systems.

(F) Training standards for public and private sector employees, emergency response procedures, and notification requirements for accidental releases.

(c) The study prepared pursuant to this act shall not duplicate other work on accidental toxic gas releases presently underway in the state, including work being done under the CAL/OSHA program, the Office of Emergency Services, and the South Coast Air Quality Management District.

SEC. 2. The study described in Section 1 shall be completed, and a report on its results transmitted by the Santa Clara Fire Chiefs Association to the State Air Resources Board and to the Legislature, on or before January 1, 1987.

CHAPTER 1147

An act to add Section 10806 to the Health and Safety Code, relating to the Birth Defect Monitoring Program, and making an appropriation therefor.

[Approved by Governor September 28, 1985 Filed with Secretary of State September 28, 1985]

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

SECTION 1. (a) In Section 10800 of the Health and Safety Code, the Legislature has previously found and declared all of the following:

(1) That birth defects, stillbirths, and miscarriages represent problems of importance to public health about which too little is known.

(2) That the conditions described in paragraph (1) lead to severe mental anguish on the part of parents and relatives and frequently lead to high costs for medical care.

(3) That a program to obtain more information about the medical problems described in paragraph (1) could result in the development of preventive measures to decrease their incidence in the future.

(b) In Section 10801 of the Health and Safety Code, the Legislature has authorized the State Director of Health Services to establish the California Birth Defects Registry, and has provided financing to maintain a birth defect monitoring program in the following five counties in the San Francisco Bay Area: Alameda, Contra Costa, San Francisco, San Mateo, and Santa Clara.

(c) The Legislature recognizes the value of expanding the Birth Defect Monitoring Program provided for in Division 9.5 (commencing with Section 10800) of the Health and Safety Code to include the County of Orange. This expansion is due to the highly industrialized nature of the county, its location in the southern half of the state, and in recognition of the model tumor registry program already established in the county.

(d) Therefore, it is the purpose of this act to authorize the State Department of Health Services to contract with the County of Orange, in the manner provided in Section 10806 of the Health and Safety Code, for the implementation of the Birth Defect Monitoring Program in that county.

SEC. 2. Section 10806 is added to the Health and Safety Code, to read:

10806. The State Department of Health Services may enter into an agreement with a county for the establishment and implementation of the Birth Defect Monitoring Program in that county. The agreement shall include provisions requiring full compliance with all the requirements of this division.

SEC. 3. The sum of two hundred seventy-five thousand dollars ($275,000) is hereby appropriated from the General Fund to the State Department of Health Services for expenditure without regard to fiscal year to expand the Birth Defect Monitoring Program provided for in Division 9.5 (commencing with Section 10800) of the Health and Safety Code to the County of Orange.

CHAPTER 1148

An act to amend Section 25168 of the Health and Safety Code, relating to hazardous waste.

[Approved by Governor September 28, 1985 Filed with Secretary of State September 28, 1985]

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

SECTION 1. Section 25168 of the Health and Safety Code is amended to read:

25168. (a) No registration shall be granted under this article unless all of the following requirements are met:

(1) The truck, trailer, semitrailer, vacuum tank, cargo tank, or container, excluding containers holding hazardous waste packages pursuant to federal Department of Transportation requirements, used to transport all types of hazardous wastes, has been inspected and received a certificate of compliance under this article.

(2) The employer owning, leasing, renting, or otherwise providing vehicles or containers used in the transportation of hazardous waste has provided both of the following:

(A) Training for any person who has not been issued a certificate pursuant to Section 12804.1 of the Vehicle Code and who will operate the vehicles or containers, which training shall be adequate to ensure the safe handling of the hazardous waste to be transported.

(B) Written documentation verifying that the operators of the vehicles or containers have received the training required by subparagraph (A).

(b) The Department of the California Highway Patrol, after consultation with the State Department of Health Services and the Department of Motor Vehicles, shall prescribe minimum standards relative to course length and subject matter for the training required by subparagraph (A) of paragraph (2) of subdivision (a).

CHAPTER 1149

An act to add Chapter 1.5 (commencing with Section 41100) to Part 24 of the Education Code, relating to schools, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1985 Filed with Secretary of State September 28, 1985]

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

SECTION 1. Chapter 1.5 (commencing with Section 41100) is added to Part 24 of the Education Code, to read:

CHAPTER 1.5. SCHOOL BUSINESS PERSONNEL STAFF DEVELOPMENT TRAINING PROGRAM

41100. It is the intent of the Legislature in enacting this chapter to establish a five-year school business personnel staff development program to provide in-service training to meet the particular needs and responsibilities of school business personnel for offices of the county superintendent of schools and school districts. In-service training provided under this chapter shall focus on skills that are necessary to carry out routine business operations and to provide support to ensure that financial managers and their staffs are kept up to date with school finance and financial management changes. The program shall provide comprehensive training designed to acquaint these persons with the state system of financial reporting, recommended budgeting, accounting, business operations, data management, and recommended audit practices established by the Controller.

It is the intent of the Legislature to encourage agencies and organizations which provide in-service training programs for school district governing board members and school superintendents to include the general financial and management principles used in the business personnel training program authorized by this chapter, and to encourage these programs to ensure that key elements and concepts of school finance and financial management are clearly understood and their respective responsibilities clearly defined.

It is the intent of the Legislature that in-service programs established under this chapter be developed by the State Department of Education, with the assistance of the Controller, Department of Finance, Auditor General, representatives of private auditing, accounting, and financial management firms, school district and county school business personnel, to be conducted by the State Department of Education and individuals, firms, or agencies experienced in the training and education of school business personnel.

It is the intent of the Legislature that, during the 1986–87 fiscal

year, the staff development training program be conducted for purposes of developing, testing, and evaluating the effectiveness of the program prior to its statewide implementation.

It is further the intent of the Legislature that offices of the county superintendent of schools and school districts undergo an assessment of their present capacity to implement the state-recommended financial system for budgeting, accounting, and auditing.

The Legislature finds that the State Department of Education, in consultation with representatives of school districts, offices of the county superintendents of schools, financial management firms, public accounting firms, and other appropriate state agencies, including the Controller and the Department of Finance, has developed a model state financial reporting system applicable to each office of the county superintendent of schools and each school district. The model shall be used as a base document during the 1985–86 and 1986–87 fiscal years for purposes of developing the program. The model financial reporting system includes recommended budgeting, accounting, and reporting systems, and is designed to accommodate state auditing requirements issued by the Controller.

The Legislature further finds that an increasing number of school districts and offices of the county superintendent of schools have relied upon loans from the state as a result of budget, accounting, and general fiscal management deficiencies.

41101. (a) The State Department of Education, with the assistance of the Controller, Department of Finance, Auditor General, and private financial management and auditing firms, shall design and implement a system to review and assess, for purposes of establishing a training schedule, the capacity of school districts and offices of the county superintendent of schools to implement budgeting, accounting, auditing, and data processing practices, including the model financial reporting system developed by the department, in cooperation with other agencies and firms. The review and assessment system shall combine the efforts of state, county, and private sector personnel in the review and assessment process.

(b) To the extent funds are appropriated for this purpose, the State Department of Education shall conduct a school business personnel staff development program which shall focus on building the skill levels necessary for school district and county office business personnel to carry out routine business operations and to provide ongoing support to ensure that financial managers and their employees are able to keep pace with the continuing changes in school finance and financial management.

The department shall also make the program available to other agencies and organizations capable of utilizing the program to ensure that school district governing board members and school superintendents clearly understand the key elements and concepts of school finance and financial management, and to ensure that their

responsibilities relating to the financial management of schools are clearly defined.

(c) In addition to the requirements of subdivision (b), the department shall ensure that the staff development training program complements and supplements the changes implemented by the model financial reporting system developed by the department.

41102. (a) The department shall take such steps as are necessary, including contracting with private financial management and accounting firms and other appropriate organizations, to provide school business personnel staff development and training programs to personnel employed by school districts and county offices. The program shall be designed to ensure that participants receive up to one week of in-service training in the areas prescribed in subdivision (b) of Section 41101.

In awarding contracts under this subdivision, the department shall ensure that each contractor has previous experience in the training and education of school business personnel, and the necessary capability and personnel to participate in the staff development programs prescribed in subdivision (b) of Section 41101 and subdivision (a) of Section 41103.

(b) Upon completion of the program, the department shall forward a letter on behalf of each program participant to the county superintendent of schools or school district governing board indicating the names of persons completing the program and the number of hours of training provided.

41103. (a) To the extent funds are appropriated for this purpose, the department shall conduct the school business personnel staff development training program as a pilot program during the 1986-87 fiscal year. The program shall be conducted in conjunction with the testing of the department's model financial reporting system.

(b) The State Department of Education, the Controller, and the Department of Finance shall evaluate the pilot program on or before October 1, 1987, for purposes of determining whether the program may be appropriately and reasonably implemented on a statewide basis. If it is determined that the pilot program is capable of being conducted on a statewide basis, the program shall be implemented statewide for the period beginning July 1, 1988, and continuing through July 1, 1991. The Legislature hereby recognizes that it may not be feasible to fully implement the program on a statewide basis during the 1988-89 fiscal year. It is the intent of the Legislature to authorize the department to schedule a phased in statewide implementation of the program, so long as the department ensures that each school district and county office requiring training is provided an opportunity to participate in the program on or before July 1, 1991.

(c) For purposes of testing the model financial reporting system developed by the department, the Superintendent of Public Instruction may waive the requirements of current law and

regulations which are in conflict with the proposed model procedures, submission dates for budget documents, interim financial reports, and annual financial statements. These waivers shall only be applicable to school districts and county offices participating in the testing and development of the model financial reporting system which is part of the school business personnel staff development and training program during the 1985–86 and 1986–87 fiscal years.

SEC. 2. (a) It is the intent of the Legislature that the State Department of Education shall provide that, from funds appropriated for administrator training and evaluation programs by subdivision (a) of Item 6100-191-001 of the Budget Act of 1985, the sum of two hundred fifty thousand dollars ($250,000) shall be used for purposes of subdivision (a) of Section 41101, and of Section 41102, of the Education Code during the 1985–86 fiscal year.

(b) It is the intent of the Legislature that funds in an amount at least equivalent to that provided in subdivision (a) shall be made available in the 1986–87, 1987–88, 1988–89, and 1989–90 fiscal years.

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 authorize school districts and county superintendents of schools participating in school business personnel staff development training programs under this act to make the necessary budget adjustments prior to the adoption of their final budget for the 1985–86 fiscal year, it is necessary that this act take effect immediately.

CHAPTER 1150

An act to amend Sections 25805 and 25812 of the Health and Safety Code, relating to radioactive waste.

[Approved by Governor September 28, 1985 Filed with Secretary of State September 28, 1985]

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

SECTION 1. 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*) "Federal research and development activity" means any activity of the Secretary of Energy conducted at any research facility

owned or operated by the United States Department of Energy.

(m) "Low-level waste" means radioactive waste not classified as high-level radioactive waste, transuranic waste, spent nuclear fuel, or the byproduct material defined in Section 11(e)(2) of the Atomic Energy Act of 1954 (42 U.S.C. Sec. 2014 (e)(2)). For purposes of this subdivision, the following definitions shall apply:

(1) "High-level radioactive waste" means either of the following:

(A) The highly radioactive material resulting from the reprocessing of spent nuclear fuel, including liquid waste produced directly in reprocessing and any solid material derived from this liquid waste that contains fission products in sufficient concentrations.

(B) Other highly radioactive material that the Nuclear Regulatory Commission, consistent with existing law, determines by rule requires permanent isolation.

(2) "Spent nuclear fuel" means fuel that has been withdrawn from a nuclear reactor following irradiation, the constituent elements of which have not been separated by reprocessing.

(3) "Transuranic waste" means any waste containing more than 100 nanocuries of alpha emitting transuranic nuclides with half-life greater than five years per gram of waste material.

SEC. 2. 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 section and Sections 25812.4, 25812.5, and 25812.7.

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 section and Sections 25812.4, 25812.5, and 25812.7.

(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).

CHAPTER 1151

An act to amend Sections 12926 and 12940 of the Government Code, relating to discrimination in employment.

[Approved by Governor September 28, 1985 Filed with Secretary of State September 28, 1985.]

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

SECTION 1. Section 12926 of the Government Code is amended to read:

12926. As used in this part in connection with unlawful practices, unless a different meaning clearly appears from the context:

(a) "Age" refers to the chronological age of any individual who has reached his or her 40th birthday.

(b) "Employee" does not include any individual employed by his or her parents, spouse, or child, or any individual employed under a special license in a nonprofit sheltered workshop or rehabilitation facility.

(c) "Employer," except as hereinafter provided, includes any person regularly employing five or more persons, or any person acting as an agent of an employer, directly or indirectly; the state or any political or civil subdivision thereof and cities.

"Employer" does not include a religious association or corporation not organized for private profit.

(d) "Employment agency" includes any person undertaking for compensation to procure employees or opportunities to work.

(e) "Labor organization" includes any organization which exists and is constituted for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, terms or conditions of employment, or of other mutual aid or protection.

(f) "Medical condition" means any health impairment related to or associated with a diagnosis of cancer, for which a person has been rehabilitated or cured, based on competent medical evidence.

(g) "On the bases enumerated in this part" means or refers to discrimination on the basis of one or more of the following: race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, sex, or age.

(h) "Physical handicap" includes impairment of sight, hearing, or speech, or impairment of physical ability because of amputation or loss of function or coordination, or any other health impairment which requires special education or related services.

(i) "Religious creed," "religion," "religious observance," "religious belief," and "creed" include all aspects of religious belief, observance, and practice.

SEC. 2. Section 12940 of the Government Code is amended to read:

12940. It shall be an unlawful employment practice, unless based upon a bona fide occupational qualification, or, except where based upon applicable security regulations established by the United States or the State of California:

(a) For an employer, because of the race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, or sex of any person, to refuse to hire or employ the person or to refuse to select the person for a training program leading to employment, or to bar or to discharge the person from employment or from a training program leading to employment, or to discriminate against the person in compensation or in terms, conditions or privileges of employment.

(1) Nothing in this part shall prohibit an employer from refusing to hire or discharging a physically handicapped employee, or subject an employer to any legal liability resulting from the refusal to employ or the discharge of a physically handicapped employee, where the employee, because of his or her physical handicap, is unable to perform his or her duties, or cannot perform those duties in a manner which would not endanger his or her health or safety or the health and safety of others.

(2) Nothing in this part shall prohibit an employer from refusing to hire or discharging an employee who, because of the employee's medical condition, is unable to perform his or her duties, or cannot perform those duties in a manner which would not endanger the employee's health or safety or the health or safety of others. Nothing in this part shall subject an employer to any legal liability resulting from the refusal to employ or the discharge of an employee who, because of the employee's medical condition, is unable to perform his or her duties, or cannot perform those duties in a manner which would not endanger the employee's health or safety or the health or safety of others.

(3) Nothing in this part relating to discrimination on account of marital status shall either (i) affect the right of an employer to

reasonably regulate, for reasons of supervision, safety, security, or morale, the working of spouses in the same department, division, or facility, consistent with the rules and regulations adopted by the commission, or (ii) prohibit bona fide health plans from providing additional or greater benefits to employees with dependents than to those employees without or with fewer dependents.

(4) Nothing in this part relating to discrimination on account of sex shall affect the right of an employer to use veteran status as a factor in employee selection or to give special consideration to Vietnam era veterans.

(b) For a labor organization, because of the race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, or sex of any person, to exclude, expel or restrict from its membership the person, or to provide only second-class or segregated membership or to discriminate against any person because of the race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, or sex of the person in the election of officers of the labor organization or in the selection of the labor organization's staff or to discriminate in any way against any of its members or against any employer or against any person employed by an employer.

(c) For any person to discriminate against any person in the selection or training of that person in any apprenticeship training program or any other training program leading to employment because of the race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, or sex of the person discriminated against.

(d) For any employer or employment agency, unless specifically acting in accordance with federal equal employment opportunity guidelines and regulations approved by the commission, to print or circulate or cause to be printed or circulated any publication, or to make any non-job-related inquiry, either verbal or through use of an application form, which expresses, directly or indirectly, any limitation, specification, or discrimination as to race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, or sex, or any intent to make any such limitation, specification or discrimination. Nothing in this subdivision shall prohibit any employer from making, in connection with prospective employment, an inquiry as to, or a request for information regarding, the physical fitness, medical condition, physical condition or medical history of applicants if that inquiry or request for information is directly related and pertinent to the position the applicant is applying for or directly related to a determination of whether the applicant would endanger his or her health or safety or the health or safety of others.

(e) For any employer, labor organization or employment agency to harass, discharge, expel, or otherwise discriminate against any person because the person has made a report pursuant to Section 11161.8 of the Penal Code.

(f) For any employer, labor organization, or employment agency to discharge, expel, or otherwise discriminate against any person because the person has opposed any practices forbidden under this part or because the person has filed a complaint, testified, or assisted in any proceeding under this part.

(g) For any person to aid, abet, incite, compel, or coerce the doing of any of the acts forbidden under this part, or to attempt to do so.

(h) For the governing board of a school district to violate Section 44066 or 87402 of the Education Code.

(i) For an employer, labor organization, employment agency, apprenticeship training program or any training program leading to employment, or any other person, because of race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, sex, or age, to harass an employee or applicant. Harassment of an employee or applicant by an employee other than an agent or supervisor shall be unlawful if the entity, or its agents or supervisors, knows or should have known of this conduct and fails to take immediate and appropriate corrective action. An entity shall take all reasonable steps to prevent harassment from occurring. Loss of tangible job benefits shall not be necessary in order to establish harassment. The provisions of this subdivision are declaratory of existing law, except for the new duties imposed on employers with regard to harassment. For purposes of this subdivision only, "employer" means any person regularly employing one or more persons, or any person acting as an agent of an employer, directly or indirectly, the state, or any political or civil subdivision thereof, and cities. However, "employer" does not include a religious association or corporation not organized for private profit. For other types of discrimination as enumerated in subdivision (a), an employer remains as defined in subdivision (c) of Section 12926. Nothing contained in this subdivision shall be construed to apply the definition of employer found in this subdivision to subdivision (a).

(j) For an employer, labor organization, employment agency, apprenticeship training program, or any training program leading to employment, to fail to take all reasonable steps necessary to prevent discrimination and harassment from occurring.

(k) For an employer or other entity covered by this part to refuse to hire or employ a person or to refuse to select a person for a training program leading to employment or to bar or to discharge a person from employment or from a training program leading to employment, or to discriminate against a person in compensation or in terms, conditions, or privileges of employment because of a conflict between the person's religious belief or observance and any employment requirement, unless the employer or other entity covered by this part demonstrates that it has explored any available reasonable alternative means of accommodating the religious belief or observance, including the possibilities of excusing the person from those duties which conflict with his or her religious belief or observance or permitting those duties to be performed at another

time or by another person, but is unable to reasonably accommodate the religious belief or observance without undue hardship on the conduct of the business of the employer or other entity covered by this part. Religious belief or observance, as used in this section, includes, but is not limited to, observance such as a Sabbath or other religious holy day or days, and reasonable time necessary for travel prior and subsequent to a religious observance.

SEC. 3. Reimbursement to local agencies and school districts for costs mandated by the state pursuant to this act shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code and, if the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), shall be made from the State Mandates Claims Fund.

CHAPTER 1152

An act to add Section 6388.3 to the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 28, 1985 Filed with Secretary of State September 28, 1985]

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

SECTION 1. Section 6388.3 is added to the Revenue and Taxation Code, to read:

6388.3. The State Board of Equalization shall prepare and distribute a standard form or forms for the purchaser affidavit required by Sections 6388 and 6388.5.

CHAPTER 1153

An act to amend Section 6361 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 28, 1985 Filed with Secretary of State September 28, 1985]

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

SECTION 1. Section 6361 of the Revenue and Taxation Code is amended to read:

6361. Any nonprofit organization, youth group sponsored by a school district, or other organization the primary purpose of which is to provide a supervised program of competitive sports for youth, or to promote good citizenship in youth, which does not discriminate

on the basis of race, sex, nationality, or religion, and which qualifies for tax-exempt status under Section 170(c) of the Internal Revenue Code, is a consumer of, and shall not be considered a retailer within the provisions of this part with respect to, food products, nonalcoholic beverages, or other tangible personal property made or produced by members of the organization which it sells on an irregular or intermittent basis, provided that the profits are used solely and exclusively in furtherance of those purposes.

"Irregular or intermittent," as used in this section, means associated directly with a particular event, such as fairs, galas, parades, scout-a-ramas, games, and similar activities. Included are refreshment stands or booths that are utilized at scheduled events of organized leagues, but not included are storefront or mobile retail outlets which ordinarily require local business licenses, or activities by any group that does not qualify for tax-exempt status under Section 170(c) of the Internal Revenue Code.

The organizations described in this section include only Little League, Bobby Sox, Boy Scouts, Cub Scouts, Girl Scouts, Campfire Girls, Young Men's Christian Association, Young Women's Christian Association, Future Farmers of America, Future Homemakers of America, and 4-H Clubs.

"Nonprofit organization," as used in this section, does not include the state or any of its political subdivisions.

SEC. 2. Notwithstanding Section 2230 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be any appropriation made by this act because revenue losses to local agencies due to this act are minor in nature and will not cause any financial burden to local government.

SEC. 3. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect. However, the provisions of this act shall become operative on the first day of the first calendar quarter commencing more than 90 days after the effective date of this act.

CHAPTER 1154

An act to amend Sections 18671.1, 18675, 19583, 19583.5, and 19702.5 of the Government Code, relating to state civil service.

[Approved by Governor September 28, 1985 Filed with Secretary of State September 28, 1985]

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

SECTION 1. The Legislature finds and declares that it is the existing policy of the State of California to prohibit discrimination, harassment, and retaliation in state civil service employment on the basis of any protected group classification. It is the existing policy of

the State of California, as declared by the Legislature, that procedures be established by which allegations of discrimination may be filed, timely and efficiently investigated, and fairly adjudicated according to due process and equal protection quarantees. To further this intent, the Legislature enacts this act.

SEC. 2. Section 18671.1 of the Government Code is amended to read:

18671.1. Whenever a hearing or investigation is conducted by the board or its authorized representative in regard to an appeal by an employee, the hearing or investigation shall be commenced within a reasonable time after the filing of the petition and the board shall render its decision within a reasonable time after the conclusion of the hearing or investigation, except that the period from the filing of the petition to the decision of the board shall not exceed six months and except that the board may extend the six-month period up to 45 additional days. In the event of an extension, the board shall publish substantial reasons for the need for the extension in its calendar prior to the conclusion of the six-month period. The provision relating to the six-month period for a decision may be waived by the employee but if not so waived, a failure to render a timely decision shall be deemed an exhaustion of all available administrative remedies. In cases involving complaints of discrimination, harassment, or retaliation, where the executive officer renders a decision, the decision shall be rendered within four months of the filing of the appeal.

SEC. 3. Section 18675 of the Government Code is amended to read:

18675. (a) All hearings and investigations authorized by this part shall be governed by this part and by rules of practice and procedure adopted by the board. In the conduct of any hearing or investigation any informality in any proceeding or in the manner of taking testimony shall not invalidate any order, decision, or rule made, approved, or confirmed by the board.

(b) During the investigation or hearing of a complaint of discrimination, harassment, or retaliation of a state employee, the board hearing officer, the departmental hearing officer, the board investigator, or the departmental investigator shall give due consideration to current laws and decisions applicable to the state civil service in arriving at a recommended decision. The recommended decisions of the hearing officer and the board shall include references to those laws and decisions applied.

SEC. 4. Section 19583 of the Government Code is amended to read:

19583. The board shall render a decision within a reasonable time after the hearing or investigation. The adverse action taken by the appointing power shall stand unless modified or revoked by the board. If the board finds that the cause or causes for which the adverse action was imposed were insufficient or not sustained, or that the employee was justified in the course of conduct upon which

the causes were based, it may modify or revoke the adverse action and it may order the employee returned to his or her position with appropriate restoration of backpay and lost benefits either as of the date of the adverse action or as of such later date as it may specify. The decision of the board shall be entered upon the minutes of the board and the official roster.

SEC. 5. Section 19583.5 of the Government Code is amended to read:

19583.5. (a) Any person with the consent of the board or the appointing power may file charges against an employee requesting that adverse action be taken for one or more causes for discipline specified in this article. The employee against whom the charges are filed shall have a right to answer as provided in this article. In all such cases a hearing shall be conducted in accord with this article and if the board finds that the charges are true it shall have the power to take such adverse action as in its judgment is just and proper.

(b) This section shall not be construed to supersede Section 19682.

SEC. 6. Section 19702.5 of the Government Code is amended to read:

19702.5. (a) The board shall provide to the Fair Employment and Housing Commission a copy of each affirmative action plan, and all subsequent amendments of such plans, adopted by each state agency, department, office or commission.

(b) The board shall annually, commencing January 1, 1975, submit to the Fair Employment and Housing Commission a statistical survey of the employment of each state agency, department, office or commission. The survey shall include, but not be limited to: sex, age, ethnic origin, current employment classification, salary, full-time or other employment status, department and administrative unit, and county of employment of employees.

(c) The board shall provide annual reports to the Legislature concerning the number and types of formal discrimination complaints and appeals against each appointing authority, including the length of time required for resolution, and the complaint and appeal outcome. At least once every three years the board shall conduct hearings to assess the effectiveness, accessibility, and fairness of the state discrimination complaint process. The outcome of these hearings shall be reported to the Legislature within 90 days of the hearing and shall include action plans for board resolution of deficiencies and any legislative recommendations.

(d) These reports and information shall constitute public records.

CHAPTER 1155

An act to add Section 11462.7 to the Welfare and Institutions Code, relating to public social services.

[Approved by Governor September 28, 1985. Filed with Secretary of State September 28, 1985]

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

SECTION 1. Section 11462.7 is added to the Welfare and Institutions Code, to read:

11462.7. (a) The Legislature finds and declares that group home providers are often unclear or uncertain about the standards used by the department to determine the reasonableness of expenditures pursuant to Section 11462.

(b) The department shall, no later than July 1, 1986, make available to all group home providers, in writing, its standards which are currently in use to determine which costs are "reasonable" pursuant to Section 11462.

(c) Effective July 1, 1986, the department shall not apply or enforce standards with regard to the reasonableness of expenditures pursuant to Section 11462 that are not made available to group home providers, in writing, prior to the beginning of the period for which a rate is established.

(d) The department shall consult with representatives of group home providers concerning the development of new reasonableness standards and the modification of existing reasonableness standards. Group home providers shall receive written notice of, and have the opportunity to comment upon, new and modified reasonableness standards proposed by the department.

(e) Notwithstanding subdivsions (b), (c), and (d), in the event of an unanticipated circumstance or unusual expenditure, the department may exercise its discretion in interpreting what is a reasonable expenditure. However, the department shall make those interpretations available to group home providers, in writing, as quickly as it is practical to do so.

CHAPTER 1156

An act to amend Sections 3209.3, 3351, and 4418 of, and to add Section 3209.8 to, the Labor Code, relating to workers' compensation.

[Approved by Governor September 28, 1985. Filed with Secretary of State September 28, 1985]

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

SECTION 1. Section 3209.3 of the Labor Code is amended to read:

3209.3. (a) "Physician" includes physicians and surgeons holding an M.D. or D.O. degree, psychologists, optometrists, dentists, podiatrists, and chiropractic practitioners licensed by California state law and within the scope of their practice as defined by California state law.

(b) "Psychologist" means a licensed psychologist with a doctorate degree in psychology and who either has at least two years clinical experience in a recognized health setting, or has met the standards of the National Register of the Health Service Providers in Psychology.

(c) When treatment or evaluation for an injury is provided by a psychologist, provision shall be made for appropriate medical collaboration when requested by the employer or the insurer.

SEC. 2. Section 3209.8 is added to the Labor Code, to read:

3209.8. Treatment reasonably required to cure or relieve from the effects of an injury shall include the services of marriage, family, and child counselors and clinical social workers licensed by California state law and within the scope of their practice as defined by California state law if the injured person is referred to the marriage, family, and child counselor or the clinical social worker by a licensed physician and surgeon, with the approval of the employer, for treatment of a condition arising out of the injury. Nothing in this section shall be construed to authorize marriage, family, and child counselors or clinical social workers to determine disability for the purposes of Article 3 (commencing with Section 4650) of Chapter 2 of Part 2.

SEC. 3. Section 3351 of the Labor Code is amended to read:

3351. "Employee" means every person in the service of an employer under any appointment or contract of hire or apprenticeship, express or implied, oral or written, whether lawfully or unlawfully employed, and includes:

(a) Aliens and minors.

(b) All elected and appointed paid public officers.

(c) All officers and members of boards of directors of quasi-public or private corporations while rendering actual service for the corporations for pay; provided that, where the officers and directors of the private corporation are the sole shareholders thereof, the corporation and the officers and directors shall come under the compensation provisions of this division only by election as provided in subdivision (a) of Section 4151.

(d) Except as provided in subdivision (h) of Section 3352, any person employed by the owner or occupant of a residential dwelling whose duties are incidental to the ownership, maintenance, or use of the dwelling, including the care and supervision of children, or whose duties are personal and not in the course of the trade, business,

profession, or occupation of the owner or occupant.

(e) All persons incarcerated in a state penal or correctional institution while engaged in assigned work.

(f) All working members of a partnership receiving wages irrespective of profits from the partnership; provided that where the working members of the partnership are general partners, the partnership and the partners shall come under the compensation provisions of this division only by election as provided in subdivision (a) of Section 4151. If a private corporation is a general partner, "working members of a partnership" shall include the corporation and the officers and directors of the corporation, provided that the officers and directors are the sole shareholders of the corporation.

SEC. 4. Section 4418 of the Labor Code is amended to read:

4418. The provisions of this chapter providing for the payment of workers' compensation asbestos workers' benefits from the Asbestos Workers' Account shall be operative only until January 1, 1989, and as of that date all payments from the fund shall be terminated, and the state shall have no further obligation to pay asbestos workers' benefits, unless a later enacted statute which is chaptered before January 1, 1989, deletes or extends that date. However, if no statute is enacted to delete or extend that date prior to January 1, 1989, the authority of the Asbestos Workers' Account under this chapter to recover the benefits and costs paid to asbestos workers prior to that date shall continue until the benefits and costs have been recovered.

CHAPTER 1157

An act to amend Section 19531 of, to add Section 19549.9 to, and to repeal Section 19531.6 of, the Business and Professions Code, relating to horseracing.

[Approved by Governor September 28, 1985 Filed with Secretary of State September 28, 1985]

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

SECTION 1. The Legislature finds and declares that there has been a decline in racing days, attendance at racing meetings, and parimutuel handle in harness and quarter horse racing and intends to make additional racing opportunities available in order to avoid the collapse of these industries and the loss of investments in breeding farms and horses and the loss of significant employment in these segments of the racing industry. The Legislature further finds and declares that the California Horse Racing Board has the responsibility for the regulation of harness and quarter horse racing and intends to give the board the power and flexibility to adjust racing schedules to accommodate the additional racing opportunities in order to maintain the state's interest in these

industries and the revenues the state receives from horseracing.

SEC. 2. Section 19531 of the Business and Professions Code is amended to read:

19531. The board shall make such allocations of racing weeks, including such simultaneous racing between zones, as it deems appropriate. The maximum number of racing weeks which may be allocated for horseracing other than at the California Exposition and State Fair, or county or district agricultural association fairs, shall be as follows:

(a) For thoroughbred racing: 40 weeks per year in the northern zone; 42 weeks per year in the central zone; and seven weeks per year in the southern zone.

(b) For harness racing: 15 weeks per year in the northern zone and 25 weeks per year in the combined central and southern zones.

(c) For quarter horse racing: 15 weeks per year in the northern zone and 30 weeks per year in the combined central and southern zones.

(d) In its written application for a license, an applicant shall state the time of day (subject to Section 19571) during which it will conduct its racing meeting, and particularly the first race starting time for the various racing days. After receiving a license, a licensee shall not change such first race starting time without securing prior approval of the board.

(e) Notwithstanding this section or any other provision in this chapter, the board shall not allocate dates to a thoroughbred association in the central zone for the purpose of conducting racing during daytime hours if a thoroughbred racing association is conducting racing in the southern zone on the same date during daytime hours.

SEC. 2.5. Section 19531 of the Business and Professions Code is amended to read:

19531. The board shall make allocations of racing weeks, including simultaneous racing between zones, as it deems appropriate. The maximum number of racing weeks which may be allocated for horseracing other than at the California Exposition and State Fair, or county or district agricultural association fairs, shall be as follows:

(a) For thoroughbred racing: 40 weeks per year in the northern zone; 42 weeks per year in the central zone; and seven weeks per year in the southern zone.

(b) For harness racing: 25 weeks per year in the northern zone and 25 weeks per year in the combined central and southern zones.

(c) For quarter horse racing: 25 weeks per year in the northern zone; and 30 weeks per year in the combined central and southern zones.

(d) In its written application for a license, an applicant shall state the time of day (subject to Section 19571) during which it will conduct its racing meeting, and particularly the first race starting time for the various racing days. After receiving a license, a licensee

shall not change the first race starting time without securing prior approval of the board.

(e) Notwithstanding this section or any other provision in this chapter, the board shall not allocate dates to a thoroughbred association in the central zone for the purpose of conducting racing during daytime hours if a thoroughbred racing association is conducting racing in the southern zone on the same date during daytime hours.

SEC. 3. Section 19531.6 of the Business and Professions Code is repealed.

SEC. 4. Section 19549.9 is added to the Business and Professions Code, to read:

19549.9. Notwithstanding subdivision (b) of Section 19531 and Section 19549, the board may allocate up to 10 additional weeks of harness racing to the Los Angeles County Fair, or its lessee, to be raced at the fairgrounds in Pomona.

SEC. 5. Section 2.5 of this bill incorporates amendments to Section 19531 of the Business and Professions Code proposed by this bill, AB 777, and SB 1005. It shall only become operative if (1) this bill and either or both of the other bills are enacted and become effective before January 1, 1986, (2) each bill amends Section 19531 of the Business and Professions Code, and (3) this bill is enacted after AB 777, or SB 1005, in which case Section 19531 of the Business and Professions Code, as amended by AB 777 or SB 1005, shall remain operative only until the operative date of this bill, at which time Section 2.5 of this bill shall become operative, and Section 2 of the bill shall not become operative.

CHAPTER 1158

An act to amend, repeal, and add Section 51225.3 to the Education Code, relating to education, and making an appropriation therefor.

[Approved by Governor September 28, 1985 Filed with Secretary of State September 28, 1985]

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

SECTION 1. Section 51225.3 of the Education Code is amended to read:

51225.3. (a) Commencing with the 1986–87 school year, no pupil shall receive a diploma of graduation from high school who, while in grades 9 through 12, has not completed all of the following:

(1) At least the following numbers of courses in the subjects specified, each course having a duration of one year.

(A) Three courses in English.

(B) Two courses in mathematics.

(C) Two courses in science, including biological and physical

sciences.

(D) Three courses in social studies, including United States history and geography; world history, culture, and geography; and American government, civics, and economics.

(E) One course in visual or performing arts or foreign language.

(F) Two courses in physical education, unless the pupil has been exempted pursuant to the provisions of this code:

(2) Such other coursework as the governing board of the school district may by rule specify.

(b) The governing board, with the active involvement of parents, administrators, teachers, and pupils, shall adopt alternative means for students to complete the prescribed course of study which may include practical demonstration of skills and competencies, supervised work experience or other outside school experience, interdisciplinary study, independent study, and credit earned at a postsecondary institution. Requirements for graduation and specified alternative modes for completing the prescribed course of study shall be made available to pupils, parents, and the public.

This section shall remain in effect only until July 1, 1988, and as of that date is repealed, unless a later enacted statute, which is enacted before July 1, 1988, deletes or extends that date.

SEC. 2. Section 51225.3 is added to the Education Code, to read:

51225.3. (a) Commencing with the 1988–89 school year, no pupil shall receive a diploma of graduation from high school who, while in grades 9 through 12, has not completed all of the following:

(1) At least the following numbers of courses in the subjects specified, each course having a duration of one year, unless otherwise specified.

(A) Three courses in English.

(B) Two courses in mathematics.

(C) Two courses in science, including biological and physical sciences.

(D) Three courses in social studies, including United States history and geography; world history, culture, and geography; a one-semester course in American government and civics, and a one-semester course in economics.

(E) One course in visual or performing arts or foreign language.

(F) Two courses in physical education, unless the pupil has been exempted pursuant to the provisions of this code.

(2) Such other coursework as the governing board of the school district may by rule specify.

(b) The governing board, with the active involvement of parents, administrators, teachers, and pupils, shall adopt alternative means for students to complete the prescribed course of study which may include practical demonstration of skills and competencies, supervised work experience or other outside school experience, interdisciplinary study, independent study, and credit earned at a postsecondary institution. Requirements for graduation and specified alternative modes for completing the prescribed course of

study shall be made available to pupils, parents, and the public.

This section shall become operative on July 1, 1988.

SEC. 3. The Legislature finds that the growth and stability of a democratic society and the ability of individuals to be effective consumers depends in large measure on each citizen's understanding of economics and the study of economics was recently included in the requirements for high school graduation.

The Legislature also finds that only half of all high school social studies teachers have had an economics course, and that they lack knowledge and familiarity with economics necessary to instruct students.

It is the intent of the Legislature, therefore, to increase the educational opportunities in economics for teachers and students by providing funding to support the Centers for Economic Education.

SEC. 4. On or before January 1, 1987, the Trustees of the California State University shall report to the Legislature regarding the success of the Centers for Economic Education program.

SEC. 5. The sum of one hundred fifty thousand dollars ($150,000) is hereby appropriated from the General Fund to the Trustees of the California State University for the period commencing January 1, 1986, and ending June 30, 1986, for purposes of augmenting funding to the Centers for Economic Education. Funds allocated to the Centers for Economic Education pursuant to this act shall supplement, and shall not supplant, existing funding for the continuing efforts of these centers to provide teacher training or educational services in economics to public schools.

CHAPTER 1159

An act to add and repeal Chapter 6.3 (commencing with Section 13500) of Part 3 of Division 9 of the Welfare and Institutions Code, relating to adult abuse victims, and making an appropriation therefor.

[Approved by Governor September 28, 1985 Filed with Secretary of State September 28, 1985]

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

SECTION 1. The Legislature finds and declares all of the following:

(a) Under existing law:

(1) 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 has been the victim of physical abuse is required to report the suspected instance of abuse to an elder protective agency.

(2) Any other person may report suspected abuse to an elder protective agency.

(b) Current information, although meager, generally shows that the abused older person usually is:

(1) Seventy-five years of age and female, and living with the abuser who is a family member.

(2) Suffering from a physical or mental ailment.

(3) Totally reliant on the abuser, who is typically a son or daughter, often an alcoholic or a drug abuser.

(c) There exists a great difficulty in getting an elderly person to report or testify concerning instances of abuse due to the elderly person's fear of further alienating the caretaker, and his or her recognition of the fact that since there is no alternative living situation available, the elderly person must either stay in the same living situation, thereby leaving the elderly person in danger of retaliation and further abuse, or be placed in a convalescent home.

(d) The intervention capacity of agencies is very limited due to a lack of any plan or program to remove the elderly person from the abusing situation.

SEC. 2. Chapter 6.3 (commencing with Section 13500) is added to Part 3 of Division 9 of the Welfare and Institutions Code, to read:

CHAPTER 6.3. EMERGENCY SHELTERS FOR ELDERLY AND DEPENDENT ADULT ABUSE VICTIMS

13500. The department shall develop a program for the establishment of emergency and temporary shelters for elderly and dependent adult victims of abuse, neglect, or abandonment. Counseling services shall be provided at the emergency or temporary shelters for these elderly and dependent adult victims of abuse, neglect, or abandonment.

13501. The program provided for under this chapter shall be implemented on a pilot project basis in a minimum of six consenting counties. The program shall commence operation on January 1, 1986, and shall remain in operation until January 1, 1989, unless extended by the Legislature.

13502. The department, in consultation with representatives of county welfare departments providing services under this chapter, shall develop regulations to be utilized for this program if the program is extended by the Legislature. These regulations shall be completed prior to January 1, 1989.

13503. (a) Adult protective services pilot projects shall utilize existing resources whenever possible. New facilities shall be established to provide emergency shelters only where existing resources are inadequate.

(b) Adult protective services pilot projects shall coordinate their efforts with local agencies which provide adult services.

13503.5. A county may contract with nonprofit organizations and private sector entities pursuant to established bidding procedures for

the rendering of services under the pilot project established in that county.

13504. The department shall submit to the Governor and the Legislature, by January 1, 1988, a report evaluating the effectiveness of the program provided for under this chapter. The report shall include, but not be limited to, the number of persons served under the program. The report shall also include information as to the cost of the services provided for in this chapter, and recommendations as to whether the program should be extended beyond January 1, 1989.

13505. This chapter shall remain in effect only until January 1, 1989, and as of that date is repealed, unless a later enacted statute chaptered prior to that date extends or deletes that date.

SEC. 3. The sum of five hundred sixty thousand dollars ($560,000) is hereby appropriated from the General Fund to the State Department of Social Services to implement this act as follows:

(a) The sum of thirty thousand dollars ($30,000) is hereby appropriated for expenditure during the 1985–86 fiscal year.

(b) The sum of two hundred fifty thousand dollars ($250,000) is hereby appropriated for expenditure during the 1986–87 fiscal year.

(c) The sum of two hundred eighty thousand dollars ($280,000) is hereby appropriated for expenditure during the 1987–88 fiscal year.

CHAPTER 1160

An act to add Section 30796.7 to the Streets and Highways Code, relating to toll bridges.

[Approved by Governor September 28, 1985 Filed with Secretary of State September 28, 1985]

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

SECTION 1. Section 30796.7 is added to the Streets and Highways Code, to read:

30796.7. (a) Notwithstanding Section 30101 or 30102, except for the purposes of subdivisions (b) and (c), a toll may not be collected from any person crossing the San Diego-Coronado Bridge after the bonds issued to construct the bridge have been retired.

(b) The commission may continue to collect tolls for the purposes of bridge operation, maintenance, rehabilitation, and improvement and improving the approaches to the bridge.

(c) In addition to the purposes for which tolls may be collected pursuant to subdivision (b), tolls may also be collected for the purpose of funding a study, to be conducted by the department, of transportation improvements and programs to alleviate bridge-related transportation problems. The study shall be completed and submitted with recommendations to the commission not later than July 1, 1986.

(d) The commission shall conduct a public hearing for the purpose of receiving input from the City of San Diego, City of Coronado, San Diego Association of Governments, and others on the issue of the level of the tolls charged. Not later than January 1, 1987, the commission shall consider the public input and the department's study recommendations submitted pursuant to subdivision (c) and determine whether or not to make any revision that may be necessary in the bridge toll rates.

CHAPTER 1161

An act to amend Section 12200 of the Welfare and Institutions Code, relating to Medi-Cal, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1985 Filed with Secretary of State September 28, 1985]

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

SECTION 1. Section 12200 of the Welfare and Institutions Code is amended to read:

12200. An aged, blind or disabled applicant or recipient shall be paid an amount of aid which when added to his or her federal benefit received under Part A of Title XVI of the Social Security Act and other nonexempt income and resources, equals the following:

(a) For a blind applicant or recipient, the sum of five hundred thirty-five dollars ($535) per month and for a married couple both qualifying for benefits under this chapter as blind, the sum of one thousand forty-one dollars ($1,041) per month.

(b) For a married couple, both qualifying for benefits under this chapter, and one of whom is blind, the sum of nine hundred eighty-two dollars ($982) per month.

(c) For an aged or disabled applicant or recipient, the sum of four hundred seventy-seven dollars ($477) per month.

(d) For a married couple both qualifying for benefits under this chapter as aged or disabled, the sum of eight hundred eighty-six dollars ($886) per month.

(e) For an aged or disabled applicant or recipient under subdivision (c) or for a married couple under subdivision (d) whose living arrangement prevents preparation of his or her or their meals at home shall be entitled to an allowance of fifty-one dollars ($51) per month for an individual and one hundred three dollars ($103) per month for a married couple in addition to any other amount he or she is entitled to under this chapter.

(f) For a disabled minor under 18 living with a parent or guardian or relative by blood or marriage, the sum of three hundred seventy-eight dollars ($378) per month.

(g) For a recipient in a nonmedical out-of-home care facility, the sum of five hundred thirty-nine dollars ($539) per month.

(h) For the personal and incidental needs of a person receiving care in a medical facility under the Medi-Cal Act, the sum of twenty-five dollars ($25) per month. The department shall issue, or arrange for the issuance from the appropriate state agency of, an additional ten dollars ($10) each month to each recipient to whom this subdivision applies.

(i) In the case of any individual, or couple, whose federal benefit received under Part A of Title XVI of the Social Security Act is reduced in accordance with Section 1612(a)(2)(A) of Public Law 92-603 because he lives in another person's household and receives support and maintenance-in-kind from such person, the appropriate grant level set forth in subdivision (a), (b), (c), or (d) of this section shall be reduced by the amount of the reduction in the federal benefit, subject to the provisions in Section 12204.

This subdivision shall be operative only during such time that such in-kind support and maintenance, under federal law, is treated as providing the basis for a lower payment standard rather than being treated as the receipt of unearned income.

This section shall become effective on January 1, 1984.

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:

Because of the federal government's refusal to administer funds intended to be made available for the personal and incidental needs of Medi-Cal recipients in medical facilities, through an increase in the amounts allowed to these recipients for these needs under Chapter 1621 of the Statutes of 1984, some persons are not receiving the increase intended by the Legislature.

In order that these individuals may receive this increase, as soon as possible, it is necessary that this act go into immediate effect.

CHAPTER 1162

An act to amend Section 6854 of, and to add Section 6855 to, the Vehicle Code, relating to commercial vehicles.

[Approved by Governor September 28, 1985. Filed with Secretary of State September 28, 1985.]

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

SECTION 1. Section 6854 of the Vehicle Code is amended to read:

6854. (a) 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.

(b) As an alternative to the requirements of subdivision (a), proof of ability to respond in damages may be met by submitting to the department either of the following:

(1) A certificate of registration as a foreign motor carrier or foreign motor private carrier issued by the Interstate Commerce Commission under Part 1171 of Title 49 of the Code of Federal Regulations.

(2) Contractual documents showing to the satisfaction of the department that a trailer or semitrailer subject to registration under Part 1171 of Title 49 of the Code of Federal Regulations will be towed by a truck or truck tractor operated by a motor carrier having highway carrier operating authority issued by the Public Utilities Commission.

SEC. 2. Section 6855 is added to the Vehicle Code, to read:

6855. No foreign motor carrier or foreign motor private carrier required to have a certificate of registration issued by the Interstate Commerce Commission under Part 1171 of Title 49 of the Code of Federal Regulations shall do any of the following:

(a) Operate in this state without the required certificate in the vehicle.

(b) Operate beyond the limitations or restrictions specified in the certificate as issued.

(c) Refuse to show the certificate upon request of a peace officer.

SEC. 3. No reimbursement is required by this act pursuant to 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 incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1163

An act to add and repeal Chapter 12 (commencing with Section 15710) of Part 3 of Division 9 of the Welfare and Institutions Code, relating to elderly persons, and making an appropriation therefor.

[Approved by Governor September 28, 1985 Filed with Secretary of State September 28, 1985]

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

SECTION 1. Chapter 12 (commencing with Section 15710) is added to Part 3 of Division 9 of the Welfare and Institutions Code, to read:

CHAPTER 12. ADULT PROTECTIVE SERVICES DEMONSTRATION PROGRAM

Article 1. Findings and Declarations

15710. The Legislature finds and declares all of the following:

(a) Recent investigations by congressional and legislative committees, academic researchers, human service agencies, and other organizations and individuals concerned with the welfare of elders and dependent adults have revealed a growing problem of abuse to these populations.

(b) The United States House of Representatives' Committee on Aging issued a report revealing that 4 percent of the nation's elderly, or one of every 25 older Americans, may be victims of some form of abuse, which means as many as 150,000 older Californians may be victims of abuse.

(c) The problems in the Adult Protective Services system include all of the following:

(1) A lack of statewide standards for investigation, assessment, intervention, and removal of abused or neglected elderly and dependent adults from their homes.

(2) A lack of early intervention resources to assist caretakers in caring for elderly and functionally disabled loved ones.

(3) A lack of structured and timely decisionmaking by the various agencies that deal with potential abuse victims.

(4) The current system of Adult Protective Services is not now adequate to meet the increasing need for services for adult abuse victims.

(d) Dependent adults and the elderly who need protection should receive assistance which permits them to live in the least restrictive environment with maximum independence.

(e) In order to address these serious problems and to meet the critical needs in this area, the state should initiate model projects in a minimum of five counties which will enable the Legislature to try new approaches to reform the Adult Protective Services system on a limited basis for a limited time with the goal of collecting data on the most effective and cost-efficient models for protecting vulnerable adults and elders and keeping them as independent as possible.

Article 2. Definitions

15715. As used in this chapter:

(a) (1) "Adult protective services" means those preventive and remedial activities performed on behalf of dependent individuals 18 years of age or older who meet any of the following criteria:

(A) They are unable to protect their own interests.

(B) They are harmed or threatened with harm.

(C) They have received physical or mental injury due to the action or inaction of another person or their own action due to ignorance, illiteracy, incompetence, or poor health.

(D) They are lacking in adequate food, shelter, or clothing.

(E) They have been exploited through a taking of their income and resources, or have been deprived of an entitlement due them.

(2) Adult protective services may include, but are not limited to, investigations, needs assessment, case management, counseling, emergency shelter and transitional care, emergency in-home caretakers, adult respite care, transportation, representative payee services, money management, information and referral services, in-home support services, and out-of-home care services.

(b) "Investigation" means that activity necessary to determine the validity of a report of elder or dependent adult abuse, neglect, or abandonment.

(c) "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 caregiver of goods or services which are necessary to avoid physical harm or mental suffering.

(d) "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:

(1) Failure to assist in personal hygiene, or in the provision of food and clothing for a dependent adult.

(2) 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.

(3) Failure to protect a dependent adult from health and safety hazards.

(4) Failure to prevent a dependent adult from suffering malnutrition.

(e) "Abandonment" means the desertion or willful forsaking of a dependent adult by a caregiver.

(f) "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.

(g) "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.

(h) "Dependent adult" means any person residing in California who is 18 years of age or older who has physical, mental, or financial limitations which restrict his or her individual ability to either carry out normal activities of daily living or to protect his or her own rights, and which threaten the individual's capacity to live an independent life.

(i) "Transitional care" means temporary out-of-home placement or in-home services which will provide for the care needs and immediate safety of an elderly or dependent abuse victim until a permanent solution can be developed and implemented.

(j) Out-of-home placement includes, but is not limited to, placement in any of the following:

(1) A residential facility.

(2) A foster home setting.

(3) A residential hotel.

(4) A shelter designed specifically for the purpose of providing transitional care to elderly persons.

(k) "Elderly abuse" is defined as that term is defined pursuant to subdivisions (a) to (f), inclusive, of Section 9380.

Article 3. Establishment of Model Projects

15720. Model adult protective services projects shall be developed in accordance with the guidelines and principles set forth in this chapter. County welfare departments, or county welfare departments in consortium with local public or private elder and dependent adult abuse prevention programs with demonstrated expertise in providing services to victims of abuse, their families and abusers, may apply to the department to be considered for one of the model projects authorized by this chapter. It is the intent of the Legislature to fund different models of adult protective services under this chapter, for comparison purposes.

15721. (a) The director shall, in consultation with county representatives and the Department of Aging, develop minimum guidelines and evaluation criteria for the adult protective services model projects. These broad guidelines shall be designed to meet all of the following goals, as set forth in Title XX of the federal Social Security Act (42 U.S.C. 1397 et seq.):

(1) Achieving or maintaining self-support to prevent, reduce, or eliminate dependency.

(2) Achieving or maintaining self-sufficiency, including reduction or prevention of dependency.

(3) Preventing or remedying neglect, abuse, exploitation of adults unable to protect their own interests, or reuniting families.

(4) Preventing or reducing inappropriate institutional care by providing community-based care, home-based care, or other forms of less intensive care.

(5) Securing referral or admission for institutional care when other forms of care are not appropriate or providing services to individuals or institutions.

(b) In addition, these adult protective services model projects shall be developed in accordance with all of the following criteria:

(1) The projects shall serve elderly and dependent adults without regard to income.

(2) Project funds received by a county shall not be used to supplant already existing adult protective services funding.

(3) In counties where adult protective services presently are established, these services may be supplemented as necessary pursuant to this chapter.

(4) Each demonstration county shall utilize available private resources in the county prior to developing new county-operated services when the private adult services resources are of at least equal quality and of lesser or equal cost as compared to county-operated resources.

(5) For the purposes of the model projects established under this chapter, counties may, subject to the approval of the department, contract for the performance of activities related to the provision of adult protective services. Counties shall not, however, contract for the performance of client eligibility determinations or needs assessments for county-administered programs.

(6) Each county shall outline steps for resource identification and coordination with local programs administered by the Department of Aging, including programs under the Older Californians Act, provided for pursuant to Division 8.5 (commencing with Section 9000), and the Long-Term Care Ombudsman program, provided for under Chapter 9 (commencing with Section 9700) of Division 8.5, the department, the State Department of Health Services, the State Department of Mental Health, the State Department of Alcohol and Drug Programs, the Department of Rehabilitation and the State Department of Developmental Services, as well as private or other resources in the community, in order to promote efficient utilization of resources and to avoid duplication of service programs.

(c) At least one demonstration county shall be in a rural area, and model projects shall be established in both northern and southern areas of the state.

(d) A county welfare department interested in participating in a model project shall submit a proposal to the department. In addition to addressing the requirements of subdivisions (a), (b), and (e), the proposal shall include at a minimum, all of the following:

(1) A description of the problems which the project is intended to resolve.

(2) Target population size and characteristics.

(3) Cost estimates.

(4) A specific evaluation plan and evaluation criteria.

(e) Project proposals submitted by the applicant counties shall include, at a minimum, procedures for all of the following:

(1) Twenty-four-hour access to adult protective services, which may include availability by telephone or in person.

(2) Investigation of reports of abuse. Investigation methods may include a private in-person interview with an alleged victim, collateral contacts with physicians, neighbors, family members, and friends, and a medical examination.

(3) Assessment of the client's need for services. The assessment process may include the development of an interdisciplinary assessment process, case management, interviews with clients, or review of appropriate records.

(4) Methods of assuring that a client receives needed services to ensure his or her safety. These services may include in-home caretakers, respite care, transitional care, access to medical care, legal assistance, guardianship, and out-of-home care. A portion of each allocation to model projects shall be used for the development or utilization of transitional care, as defined in subdivision (i) of Section 15715.

(5) The use of crisis or time-limited intervention in care planning, which may include one-time-only or short-term services to address immediate needs.

(6) Coordination with existing community resources to ensure maximum access on behalf of clients and to avoid duplicative service efforts. This may include interagency agreements and letters of understanding.

(7) Programs that are designed to prevent neglect, abuse, or exploitation of elderly and dependent adults, which may include respite care or community education.

Model projects may develop alternative methods for addressing the procedures required by this subdivision, subject to approval by the department.

Article 4. Project Selection and Evaluation

15730. The department shall select a minimum of five county adult protective service agencies, with the consent of each county, to operate model projects pursuant to this chapter. The department shall enter into agreements, and negotiate contracts with, the submitting county agency to operate model projects consistent with the criteria set forth in Section 15721. Model projects selected pursuant to this chapter shall include different methods of service delivery and differing combinations of services.

15730.5. The department shall monitor and evaluate the model projects implemented pursuant to this chapter. Model pilot project counties shall provide the information necessary to monitor and

evaluate projects as determined by the department. Evaluation criteria shall include, but not be limited to, all of the following:

(a) The criteria set forth in Section 15721.

(b) The effectiveness of services provided to recipients.

(c) Program costs.

(d) The effectiveness in coordinating with other related services available to recipients.

(e) Model project program and cost effectiveness in relation to other model projects and nonmodel control counties.

15731. On or before December 31, 1987, the department shall submit a report to the Legislature which shall include, but shall not be limited to, all of the following:

(a) A financial report for each model project.

(b) A qualitative and quantitative profile of the model projects and eligible persons receiving services.

(c) A report addressing each of the evaluation components contained in Section 15730.5.

(d) An assessment of the demand for services and an evaluation of the success the models have in meeting this demand.

(e) Specific identification of any factors which significantly enhance or inhibit the success of these models in protecting vulnerable elderly and dependent adults.

(f) The appropriateness of continuing the projects or services on a demonstration or statewide basis.

Article 5. Funding

15740. The sum of one million dollars ($1,000,000) is hereby appropriated from the General Fund to the department for allocation to model projects pursuant to this chapter. The department shall use no more than 10 percent of these funds for administriative costs.

Model project counties shall provide matching funds of 20 percent of project expenditures for each year. Matching funds may be provided through cash or in-kind contributions, including staff, space, equipment, materials, and reasonable administrative services. The provisions permitting in-kind matching of funds are designed to encourage private and public collaboration in the development and delivery of services.

Funds appropriated under this section shall not be expended until the adoption by the department of standards to be met by grantees pursuant to this chapter.

15741. The department may establish staff positions as needed for the purpose of implementing and administering the model adult protective services projects provided for in this chapter.

Article 6. Duration of Chapter

15745. This chapter shall remain in effect only until July 1, 1988, and as of that date is repealed, unless a later enacted statute, which is enacted prior to July 1, 1988, deletes or extends that date.

CHAPTER 1164

An act to amend Sections 15600 and 15602 of, to add Sections 15632, 15633, 15633.5, 15634, 15635, 15637, and 15640 to, and to repeal and add Sections 15610, 15630, and 15631 of, the Welfare and Institutions Code, relating to dependent adults, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1985 Filed with Secretary of State September 28, 1985]

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

SECTION 1. Section 15600 of the Welfare and Institutions Code is amended to read:

15600. (a) The Legislature recognizes that dependent adults may be subjected to abuse, neglect, or abandonment and that this state has a responsibility to protect such persons.

(b) The Legislature further recognizes that a significant number of these persons are elderly. The Legislature desires to direct special attention to the needs and problems of the elderly, recognizing that these persons constitute a significant and identifiable segment of the population and that they are more subject to risks of abuse, neglect, and abandonment.

(c) The Legislature further recognizes that a significant number of these persons have developmental disabilities and that mental and verbal limitations often leave them vulnerable to abuse and incapable of asking for help and protection.

(d) Most elders and dependent adults who are at the greatest risk of abuse, neglect, or abandonment by their family or caretakers suffer physical impairments and other poor health that place them in a dependent and vulnerable position.

(e) Factors which contribute to abuse, neglect, or abandonment of elders and dependent adults are economic instability of the family, resentment of caretaker responsibilities, stress on the caretaker, and abuse by the caretaker of drugs or alcohol.

(f) The Legislature declares that this state shall foster and promote community services for the economic, social, and personal well-being of its citizens in order to protect those persons described in this section.

(g) Uniform state guidelines which specify when county adult protective service agencies are to investigate allegations of abuse to

elders and dependent adults and the appropriate role of local law enforcement do not currently exist and the implementation of these guidelines is necessary in order to ensure that a minimum level of protection is provided to elders and dependent adults in each county.

(h) Therefore, it is the intent of the Legislature in enacting this chapter to provide that, in those instances where a county has designated an elder or dependent adult abuse reporting agency, that agency shall receive referrals or complaints from public or private agencies, from any mandated reporter submitting reports pursuant to Section 9381 or 15630, or from any other source having reasonable cause to know that the welfare of an elder or dependent adult is endangered, and shall take such actions as are considered necessary to protect the elder or dependent adult and correct the situation and ensure the individual's safety.

SEC. 1.5. Section 15602 of the Welfare and Institutions Code is amended to read:

15602. This chapter shall remain in effect only until January 1, 1990, and on that date is repealed unless a later enacted statute, which is chaptered before that date, deletes or extends that date.

SEC. 2. Section 15610 of the Welfare and Institutions Code is repealed.

SEC. 3. Section 15610 is added to the Welfare and Institutions Code, to read:

15610. As used in this chapter:

(a) "Dependent adult" means any person residing in this state, between the ages of 18 and 64, who has physical or mental limitations which restrict his or her ability to carry out normal activities or to protect his or her rights including, but not limited to, persons who have physical or developmental disabilities or whose physical or mental abilities have diminished because of age.

(b) "Physical abuse" means assault and battery, which means all of the following:

(1) Assault, as defined in Section 240 of the Penal Code.

(2) Battery, as defined in Section 242 of the Penal Code.

(3) Assault with a deadly weapon or force likely to produce great bodily injury, as defined by Section 245 of the Penal Code.

(4) Unreasonable physical constraint, or prolonged or continual deprivation of food or water.

(5) Sexual assault, which means any of the following:

(A) Sexual battery, as defined in Section 243.4 of the Penal Code.

(B) Rape, as defined in Section 261 of the Penal Code.

(C) Rape in concert, as described in Section 264.1 of the Penal Code.

(D) Incest, as defined in Section 285 of the Penal Code.

(E) Sodomy, as defined in Section 286 of the Penal Code.

(F) Oral copulation, as defined in Section 288a of the Penal Code.

(G) Penetration of a genital or anal opening by a foreign object, as defined in Section 289 of the Penal Code.

(c) "Neglect" means the negligent 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 all of the following:

(1) Failure to assist in personal hygiene, or in the provision of food or clothing.

(2) Failure to provide medical care for physical and mental health needs. 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 from health and safety hazards.

(4) Failure to prevent malnutrition.

(d) "Abandonment" means the desertion or willful foresaking of a dependent adult by anyone having care or custody of that person under circumstances in which a reasonable person would continue to provide care and custody.

(e) "Fiduciary abuse" means a situation in which any person who has the care or custody of, or who stands in a position of trust to, a dependent adult, takes, secretes, or appropriates their money or property, to any use or purpose not in the due and lawful execution of his or her trust.

(f) "Abuse of a dependent adult" means physical abuse, sexual abuse, neglect, intimidation, cruel punishment, fiduciary abuse, or other treatment with resulting physical harm or pain or mental suffering, or the deprivation by a care custodian of goods or services which are necessary to avoid physical harm or mental suffering.

(g) "Care custodian" means an administrator or an employee of any of the following public or private facilities:

(1) Health facility.

(2) clinic.

(3) Home health agency.

(4) Educational institution.

(5) Sheltered workshop.

(6) Camp.

(7) Respite care facility.

(8) Residential care institution, including foster homes and group homes.

(9) Community care facility.

(10) Adult day care facility, including adult day health care facilities.

(11) Regional center for persons with developmental disabilities.

(12) Licensing worker or evaluator.

(13) Public assistance worker.

(14) Adult protective services agency.

(15) Patient's rights advocate.

(16) Nursing home ombudsman.

(17) Legal guardian or conservator.

(18) Skilled nursing facility.

(19) Intermediate care facility.

(20) Local law enforcement agency.

(21) Any other person who provides goods or services necessary to avoid physical harm or mental suffering and who performs duties.

(h) "Health practitioner" means a physician and surgeon, psychiatrist, psychologist, dentist, resident, intern, podiatrist, chiropractor, licensed nurse, dental hygienist, marriage, family, and child counselor, or any other person who is currently licensed under Division 2 (commencing with Section 500) of the Business and Professions Code, any emergency medical technician I or II, paramedic, a person certified pursuant to Division 2.5 (commencing with Section 1797) of the Health and Safety Code, a psychological assistant registered pursuant to Section 2913 of the Business and Professions Code, a marriage, family and child counselor trainee, as defined in subdivision (c) of Section 4980.03 of the Business and Professions Code, or an unlicensed marriage, family and child counselor intern registered under Section 4980.44 of the Business and Professions Code, state or county public health or social service employee who treats a dependent adult for any condition, a coroner, or a religious practitioner who diagnoses, examines or treats dependent adults.

(i) "Adult protective services agency" means a county welfare or social services department.

(j) "Adult protective services" means those preventive and remedial activities performed on behalf of dependent adults who are unable to protect their own interests; harmed or threatened with harm; caused physical or mental injury due to the action or inaction of another person or their own action due to ignorance, illiteracy, incompetence, mental limitation or poor health; lacking in adequate food, shelter, or clothing; exploited of their income and resources; or deprived of entitlement due them.

(k) "Goods and services which are necessary to avoid physical harm or mental suffering" include, but are not limited to, all of the following:

(1) The provision of medical care for physical and mental health needs.

(2) Assistance in personal hygiene.

(3) Possessing adequate clothing.

(4) Adequately heated and ventilated shelter.

(5) Protection from health and safety hazards.

(6) Protection from malnutrition, under those circumstances where the results include, but are not limited to, malnutrition and deprivation of necessities or physical punishment.

(7) Transportation and assistance necessary to secure any of the needs set forth in paragraphs (1) to (6) above.

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.

(*l*) "Investigation" means that activity necessary to determine the validity of a report of elder or dependent adult abuse, neglect,

or abandonment.

(m) "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.

(n) "Developmentally disabled person" means a person with a developmental disability specified by or as described in subdivision (a) of Section 4512.

(o) "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.

(p) "Patient's rights advocate" means a person who has no direct or indirect clinical or administrative responsibility for the patient, and who shall be responsible for ensuring that laws, regulations, and policies on the rights of the patient are observed.

(q) "Local law enforcement agency" means a city police or county sheriff's department, or a county probation department.

SEC. 4. Section 15630 of the Welfare and Institutions Code is repealed.

SEC. 5. Section 15630 is added to the Welfare and Institutions Code, to read:

15630. (a) Any dependent adult care custodian, health practitioner, or employee of a county adult protective services agency or a local law enforcement agency, who in his or her professional capacity or within the scope of his or her employment, either has actual knowledge that a dependent adult has been the victim of physical abuse, or observes a physical injury to a dependent adult under circumstances that are consistent with physical abuse, where the dependent adult's statements, or in the case of persons who have developmental disabilities, their statements or other corroborating evidence, indicate that abuse has occurred, shall report the known or suspected instance of physical abuse to the county adult protective services agency, or a local law enforcement agency immediately or as soon as possible by telephone, and shall prepare and send a written report thereof within 36 hours.

(b) Any care custodian, health practitioner, or employee of an adult protective services agency or local law enforcement agency who has knowledge of or reasonably suspects that other types of dependent abuse have been inflicted upon a dependent adult or that his or her emotional well-being is endangered in any other way, may report such known or suspected instance of abuse to an adult protective services agency or local law enforcement agency.

(c) When two or more persons who are required to report are present and jointly have knowledge of a known or suspected instance of abuse of a dependent adult, 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.

(d) The reporting duties under this section are individual, and, no supervisor or administrator may impede or inhibit the reporting duties and no person making such a report shall be subject to any sanction for making the report. However, internal procedures to facilitate reporting and apprise supervisors and administrators of reports may be established, provided they are not inconsistent with the provisions of this chapter.

(e) An adult protective services agency shall immediately or as soon as practically possible report by telephone to the law enforcement agency having jurisdiction over the case and to any public agency given responsibility for investigation in that jurisdiction of cases of dependent adult abuse, every known or suspected instance of dependent adult abuse. A county probation or welfare department shall also send a written report thereof within 36 hours of receiving the information concerning the incident to each agency to which it is required to make a telephone report under this subdivision.

A law enforcement agency shall immediately or as soon as practically possible report by telephone to the county welfare department and the agency given responsibility for the investigation of cases of dependent adult abuse every known or suspected instance of abuse of a dependent adult. A law enforcement agency shall also send a written report thereof within 36 hours of receiving the information concerning the incident to any agency to which it is required to make a telephone report under this subdivision.

SEC. 6. Section 15631 of the Welfare and Institutions Code is repealed.

SEC. 7. Section 15631 is added to the Welfare and Institutions Code, to read:

15631. (a) Any other person who knows, or reasonably suspects, that a dependent adult has been the victim of abuse may report that abuse to the county adult protective services agency or a local law enforcement agency.

(b) For the purposes of this section, "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 upon his or her training and experience, to suspect abuse.

SEC. 8. Section 15632 is added to the Welfare and Institutions Code, to read:

15632. (a) Any person who enters into employment on or after January 1, 1986, as a care custodian, health practitioner, or with an adult protective services agency or a local law enforcement agency, prior to commencing his or her employment and as a prerequisite to that employment, and any person who was employed prior to

January 1, 1986, and continues to be employed after January 1, 1986, as a care custodian, health practitioner, or with an adult protective services agency or a local law enforcement agency, as a condition of continued employment, shall sign a statement on a form, which shall be provided by the prospective employer, to the effect that he or she has knowledge of the provisions of Section 15630 and will comply with its provisions.

(b) The statement shall be in the following form:

Section 15630 of the Welfare and Institutions Code requires any care custodian, health practitioner, or employee of an adult protective services agency or a local law enforcement agency who has knowledge of or observes a dependent adult in his or her professional capacity or within the scope of his or her employment who he or she knows has been the victim of physical abuse, or who has injuries under circumstances which are consistent with abuse where the dependent adult's statements indicate, or in the case of a person with developmental disabilities, where his or her statements or other corroborating evidence indicates that abuse has occurred, to report the known or suspected instance of physical abuse to an adult protective services or a local law enforcement agency immediately or as soon as practically possible by telephone and to prepare and send a written report thereof within 36 hours of receiving the information concerning the incident.

"Care custodian" means an administrator or an employee of any of the following public or private facilities:

(1) Health facility.
(2) Clinic.
(3) Home health agency.
(4) Educational institution.
(5) Sheltered workshop.
(6) Camp.
(7) Respite care facility.
(8) Residential care institution, including foster homes and group homes.
(9) Community care facility.
(10) Adult day care facility, including adult day health care facilities.
(11) Regional center for persons with developmental disabilities.
(12) Licensing worker or evaluator.
(13) Public assistance worker.
(14) Adult protective services agency.
(15) Patient's rights advocate.
(16) Nursing home ombudsman.
(17) Legal guardian or conservator.
(18) Skilled nursing facility.
(19) Intermediate care facility.
(20) Local law enforcement agency.
(21) Any other person who provides goods or services necessary to avoid physical harm or mental suffering and who performs duties.

"Health practitioner" means a physician and surgeon, psychiatrist, psychologist, dentist, resident, intern, podiatrist, chiropractor, licensed nurse, dental hygienist, marriage, family and child counselor or any other person who is currently licensed under Division 2 (commencing with Section 500) of the Business and Professions Code, any emergency medical technician I or II, paramedic, a person certified pursuant to Division 2.5 (commencing with Section 1797) of the Health and Safety Code, or a psychological assistant registered pursuant to Section 2913 of the Business and Professions Code, a marriage, family and child counselor trainee, as defined in subdivision (c) of Section 4980.03 of the Business and Professions Code, or an unlicensed marriage, family and child counselor intern registered under Section 4980.44 of the Business and Professions Code, a state or county public health employee who treats a dependent adult for any condition, a coroner, or a religious practitioner who diagnoses, examines, or treats dependent adults.

(c) The signed statements shall be retained by the employer. The cost of printing, distribution, and filing of these statements shall be borne by the employer.

SEC. 9. Section 15633 is added to the Welfare and Institutions Code, to read:

15633. (a) A telephone report of a known or suspected instance of dependent adult abuse shall include the name of the person making the report, the name and age of the dependent adult, the present location of the dependent adult, the names and addresses of family members or any other person responsible for the dependent adult's care, if known, the nature and extent of the dependent adult's condition, and any other information, including information that led that person to suspect dependent adult abuse requested by the adult protective services agency.

(b) The written reports required for the reporting procedures, as defined in this chapter, shall be submitted on forms adopted by the department after consultation with representatives of the various law enforcement agencies, professional medical and nursing agencies, hospital associations, the Department of Aging, the State Department of Developmental Services, the State Department of Education, and the county probation or welfare departments. These forms shall be distributed by the county adult protective services agencies.

(c) Information relevant to the incident of dependent adult abuse may also be given to an investigator from an adult protective services agency or a local law enforcement agency who is investigating the known or suspected case of dependent adult abuse.

(d) The identity of all persons who report under this chapter shall be confidential and disclosed only between adult protective services agencies or local law enforcement agencies, or to counsel representing an adult protective services or a local law enforcement agency, to the district attorney in a criminal prosecution, or when persons reporting waive confidentiality, or by court order.

(e) Notwithstanding subdivision (a), persons who may report pursuant to Section 15631 are not required to include their names.

SEC. 10. Section 15633.5 is added to the Welfare and Institutions Code, to read:

15633.5. (a) The reports required by Section 15630 shall be confidential and may be disclosed only as provided in subdivision (b). Any violation of the confidentiality required by this chapter is a misdemeanor punishable by not more than six months in the county jail, by a fine of five hundred dollars ($500), or by both that fine and imprisonment.

(b) Reports of suspected dependent adult 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 15633.

(2) Persons or agencies to whom disclosure of information is permitted under subdivision (b) of Section 15635.

(3) Persons or agencies with whom investigations of abuse of dependent adults are coordinated under regulations promulgated under Section 15640.

(c) This section shall not be interpreted to allow disclosure of any reports or records relevant to the reports of dependent adult 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 the abuse.

SEC. 11. Section 15634 is added to the Welfare and Institutions Code, to read:

15634. (a) No care custodian, health practitioner or employee of an adult protective service agency or a local law enforcement agency who reports a known or suspected instance of dependent adult abuse shall be civilly or criminally liable for any report required or authorized by this article. Any other person reporting a known or suspected instance of dependent adult abuse shall not incur civil or criminal liability as a result of any report authorized by this article, unless it can be proven that a false report was made and the person knew that the report was false. No person required to make a report pursuant to this article, or any person taking photographs at his or her discretion, shall incur any civil or criminal liability for taking photographs of a suspected victim of dependent adult abuse or causing photographs to be taken of such a suspected victim or for disseminating the photographs with the reports required by this article. However, the provisions of this section shall not be construed to grant immunity from this liability with respect to any other use of the photographs.

(b) Any care custodian, health practitioner, or employee of an adult protective services agency or a local law enforcement agency who, pursuant to a request from an adult protective services agency or a local law enforcement agency, provides the requesting agency with access to the victim of a known or suspected instance of dependent adult abuse shall not incur civil or criminal liability as a

result of providing that access.

(c) The Legislature finds that, even though it has provided immunity from liability to persons required to report dependent adult abuse, that immunity does not eliminate the possibility that actions may be brought against those persons based upon required reports of abuse. In order to further limit the financial hardship that those persons may incur as a result of fulfilling their legal responsibilities, it is necessary that they not be unfairly burdened by legal fees incurred in defending those actions. Therefore, a care custodian, health practitioner, or an employee of an adult protective services agency or a local law enforcement agency may present a claim to the State Board of Control for reasonable attorneys' fees incurred in any action against that person on the basis of making a report required or authorized by this article if the court has dismissed the action upon a demurrer or motion for summary judgment made by that person, or if he or she prevails in the action. The State Board of Control shall allow that claim if the requirements of this subdivision are met, and the claim shall be paid from an appropriation to be made for that purpose. Attorneys' fees awarded pursuant to this section shall not exceed an hourly rate greater than the rate charged by the Attorney General at the time the award is made and shall not exceed an aggregate amount of fifty thousand dollars ($50,000). This subdivision shall not apply if a public entity has provided for the defense of the action pursuant to Section 995 of the Government Code.

(d) Any person who fails to report an instance of dependent adult abuse which he or she knows to exist or reasonably should know to exist, as required by this article, is guilty of a misdemeanor and shall be punished by imprisonment in the county jail not exceeding six months, by a fine of not exceeding one thousand dollars ($1,000), or by both that fine and imprisonment.

SEC. 12. Section 15635 is added to the Welfare and Institutions Code, to read:

15635. (a) The county board of supervisors may designate a voluntary or private nonprofit community agency to receive reports filed pursuant to this article.

(b) Each county adult protective services agency or designated control agency shall maintain an inventory of all public and private service agencies available to assist victims of abuse, as defined by Section 15610. This inventory shall be used to refer victims in the event that the county adult protective services agency cannot resolve the immediate needs of the victim, and to serve the victim on a long-term, followup basis. The intent of this section is to acknowledge that limited funds are available to resolve all suspected cases of abuse reported to a county adult protective services agency.

(c) Counties are encouraged to establish a formal agreement with the local long-term care ombudsman programs designated by the Department of Aging to help resolve suspected cases of abuse occurring in an institutional setting.

SEC. 13. Section 15637 is added to the Welfare and Institutions Code, to read:

15637. 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 or 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.

SEC. 14. Section 15640 is added to the Welfare and Institutions Code, to read:

15640. (a) The department, in cooperation with representatives of county government, and in consultation with the State Department of Education, the State Department of Developmental Services, and the Department of Justice, shall establish minimum guidelines for determining when an investigation of an allegation of abuse is warranted. The department shall report to the Joint Legislative Budget Committee by January 1, 1988, on the fiscal and programmatic impact of these guidelines on county adult protective service agencies.

(b) The Department of Justice, in consultation with the department, the State Department of Education, the State Department of Developmental Services, and representatives of local law enforcement and county adult protective service agencies shall develop uniform guidelines for local law enforcement assistance with investigations of allegations of abuse to elderly persons and dependent adults conducted by county adult protective service agencies. Consistent with these guidelines, county adult protective service agencies may seek local law enforcement assistance with investigations of allegations of abuse to elders and dependent adults. The Department of Justice shall report to the Joint Legislative Budget Committee by January 1, 1988, on the fiscal and programmatic impact of these guidelines on local law enforcement agencies.

SEC. 15. Reimbursement to local agencies and school districts for costs mandated by the state pursuant to this act shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code and, if the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), shall be made from the State Mandates Claims Fund.

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 provide for reporting of dependent adult abuse at the earliest possible time, it is necessary that this act take effect

immediately.

CHAPTER 1165

An act to amend Section 1533 of the Health and Safety Code, relating to community care facilities.

[Approved by Governor September 28, 1985 Filed with Secretary of State September 28, 1985]

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

SECTION 1. Section 1533 of the Health and Safety Code is amended to read:

1533. Except as otherwise provided in this section, any duly authorized officer, employee, or agent of the State Department of Social Services may, upon presentation of proper identification, enter and inspect any place providing personal care, supervision, and services at any time, with or without advance notice, to secure compliance with, or to prevent a violation of, any provision of this chapter.

Foster family homes which are considered private residences for the purposes of Section 1530.5 shall not be subject to inspection by the department or its officers without advance notice, except in response to a complaint or unless an inspection is made within 120 days prior to license renewal. The unannounced visits may be made only once during the 120-day period prior to license renewal, and shall not constitute the annual evaluation visit required by Section 1534. Inspection visits to foster family homes shall be made during normal business hours, unless the serious nature of a complaint requires otherwise.

"Normal business hours," as used in this section, means from 8 a.m. to 5 p.m., inclusive, of each day from Monday to Friday, inclusive, other than state holidays.

CHAPTER 1166

An act to amend Sections 33351, 33779, and 34064 of, and to add Sections 32734, 34007, 34065, and 35283 to, the Food and Agricultural Code, and to add Chapter 3.5 (commencing with Section 3130) to Division 4 of, and to repeal Section 3120 of, the Health and Safety Code, relating to milk products safety and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1985. Filed with Secretary of State September 28, 1985]

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

SECTION 1. Section 32734 is added to the Food and Agricultural Code, to read:

32734. (a) In addition to any other provison of law, the director shall require inspections at least quarterly of all milk products plants that pasteurize milk or milk products, manufacture cheese, or manufacture raw milk cheese. The inspection procedures shall include sanitation inspections and pasteurization equipment controls and tests, where applicable. The procedure shall include, but is not limited to, all of the following:

(1) Review of all pasteurization records required pursuant to Sections 34007, 34064, and 34065.

(2) Inspection and testing of all pasteurization equipment to ensure its cleanliness and proper operating condition.

(3) Inspection of all equipment, facilities, raw milk and milk products handling practices, and surroundings to ensure adequate sanitation.

(4) Sampling and testing of raw products and processed milk products.

(b) The findings of all inspections, sample results, controls, and tests shall be prepared in writing by the inspector and submitted to the director.

SEC. 2. Section 34007 is added to the Food and Agricultural Code, to read:

34007. (a) Every person that uses any pasteurizing apparatus for the manufacture of soft fresh cheese varieties that are not cultured shall sample and test the pasteurized milk daily from each pasteurizer to determine the presence of phosphatase enzymes in a manner approved by the director. Records of the tests shall be made and kept on file for not less than one year after they are made. The records shall at all times be open to the inspection of the director and to all state, county, and municipal officers who are required to enforce laws and ordinances regarding milk products or the public health.

(b) In the event of a positive finding pursuant to this section, the milk products plant operator shall immediately notify the department of the findings.

SEC. 3. Section 33351 of the Food and Agricultural Code is amended to read:

33351. It is unlawful for any person to do any of the following:

(a) Prevent, interfere with, or attempt to nullify in any way the work of any duly authorized representative of the department or of an approved milk inspection service in the enforcement of any provision of this division.

(b) Interfere with or prevent any such representative from

examining or auditing any records or books in the conduct of his or her official duty. The records that are required to be made available include, but are not limited to, raw milk products purchased or received, daily production and manufacturing records, and all sales and distribution records maintained by the licensed milk products plant.

(c) Prevent or interfere with any such representative if he or she deems it advisable to secure samples of milk or any product of milk, product resembling milk products, imitation butter, or oleomargarine, or any substance which is designed to be used as a substitute for milk or any product of milk.

SEC. 4. Section 33779 of the Food and Agricultural Code is amended to read:

33779. (a) No person who is connected with, or employed in, a milk products plant and liable to come in contact with milk or milk products or the milk products plant operations, shall be afflicted with any communicable disease or in a condition to disseminate the germs of any communicable disease.

(b) The director, in addition to the authority granted by this section and by Sections 33517, 35862, and 35892, shall require the physical examination and testing of any dairy farm workers or milk products plant employees when there is reasonable cause to believe a worker or employee could be infected with a milk-borne disease.

SEC. 5. Section 34064 of the Food and Agricultural Code is amended to read:

34064. Every person that uses any pasteurizing apparatus within the state shall date, preserve, and keep on file for not less than one year after they are made, all records which have been made by the recording thermometer. The records shall, at all times, be open to the inspection of the director, and all state, county, and municipal officers who are charged with the enforcement of the laws and ordinances respecting milk products or the public health.

SEC. 6. Section 34065 is added to the Food and Agricultural Code, to read:

34065. Every person who uses any pasteurizing apparatus within the state shall compile and keep on file for not less than one year records relating to pasteurization equipment modifications, maintenance, and repairs. The records shall, at all times, be open to the inspection of the director and all state, county, and municipal officers who are charged with the enforcement of the laws and ordinances regarding milk products or the public health.

SEC. 7. Section 35283 is added to the Food and Agricultural Code, to read:

35283. Notwithstanding Sections 35281 and 35282, any person who intentionally commits any of the following acts is guilty of a felony and, upon conviction, shall be punished by a fine of not less than one thousand dollars ($1,000) nor more than ten thousand dollars ($10,000), or by imprisonment of not less than six months nor more than one year, or by both the fine and imprisonment:

(a) Processing without pasteurization any milk or milk product which is required by this division to be pasteurized.

(b) Manufacturing or processing for resale of any milk or milk product in a milk products plant which is not licensed by the director pursuant to Chapter 12 (commencing with Section 34951).

(c) Providing milk or milk products to any person for the manufacturing or processing for resale of any milk or milk product unless that person is licensed by the director pursuant to Chapter 12 (commencing with Section 34951).

(d) Falsifying any records which are required by Sections 34007, 34064, and 34065.

SEC. 8. Section 3120 of the Health and Safety Code is repealed.

SEC. 9. Chapter 3.5 (commencing with Section 3130) is added to Division 4 of the Health and Safety Code, to read:

CHAPTER 3.5 FOOD PRODUCT SAFETY

3130. The state department shall establish a list of reportable diseases transmitted by food products. The reportable diseases shall include, but are not limited to, diphtheria, listeriosis, salmonellosis, shigellosis, typhoid fever, streptococcal infection, or any other disease known to be, or suspected of being, transmitted by food products.

3131. (a) When there occurs, in the household of any dairy worker, milkman, milk dealer, milk distributor, creamery worker, or pasteurizing plant operator, a case or a suspected case of a milk transmitted disease listed pursuant to Section 3130, the sale or distribution of milk from those premises is prohibited unless written authorization for its sale or distribution is given by the health officer.

(b) A case or suspected case of any disease which occurs in the household of any of the above-mentioned persons, and which is known to be transmitted by milk, shall be reported immediately to the health officer.

3132. The state department shall cooperate with the Department of Food and Agriculture in the inspection of any milk products plants associated with diseases reported pursuant to Section 3130. The Department of Food and Agriculture shall consult with the state department prior to condemning milk or milk products which are determined to be contaminated based on a finding of illnesses pursuant to Section 3130.

SEC. 10. No reimbursement is required by this act pursuant to 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 incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

SEC. 11. This act is an urgency statute necessary for the immediate preservation of 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:

California has experienced the most serious and tragic food contamination episode of the twentieth century. In order to prevent additional deaths and illness, it is necessary that this act take effect immediately.

CHAPTER 1167

An act to add Chapter 6.95 (commencing with Section 25500) to Division 20 of the Health and Safety Code, relating to hazardous materials.

[Approved by Governor September 28, 1985 Filed with Secretary of State September 28, 1985]

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

SECTION 1. Chapter 6.95 (commencing with Section 25500) is added to Division 20 of the Health and Safety Code, to read:

CHAPTER 6.95. HAZARDOUS MATERIALS RELEASE RESPONSE PLANS AND INVENTORY

25500. The Legislature declares that, in order to protect the public health and safety and the environment, it is necessary to establish business and area plans relating to the handling and release or threatened release of hazardous materials. The establishment of minimum statewide standards for these plans is a statewide concern. Basic information on the location, type, quantity, and the health risks of hazardous materials handled, used, stored, or disposed of in the state, which could be accidently released into the environment, is not now available to firefighters, health officials, planners, public safety officers, health care providers, regulatory agencies, and other interested persons. The information provided by business and area plans is necessary in order to prevent or mitigate the damage to the health and safety of persons and the environment from the release or threatened release of hazardous materials into the workplace and environment.

The Legislature further finds and declares that this chapter does not occupy the whole area of regulating the inventorying of hazardous materials and the preparation of hazardous materials response plans by businesses and the Legislature does not intend to preempt any local actions, ordinances, or regulations which impose additional or more stringent requirements on businesses which handle hazardous materials. Thus, in enacting this chapter, it is not the intent of the Legislature to preempt or otherwise nullify any other statute or local ordinances containing the same or greater standards and protections.

25501. Unless the context indicates otherwise, the following definitions govern the construction of this chapter:

(a) "Administering agency" means the department, office, or other agency of a county or city designated pursuant to subdivision (c) of Section 25502.

(b) "Area plan" means a plan established pursuant to Section 25503 by an administering agency for emergency response to a release or threatened release of a hazardous material within a city or county.

(c) "Business" means an employer, self-employed individual, trust, firm, joint stock company, corporation, partnership, or association. For purposes of this chapter, "business" includes a business organized for profit and a nonprofit business.

(d) "Business plan" means a separate plan for each facility, site, or branch of a business which meets the requirements of Section 25504.

(e) "Chemical name" means the scientific designation of a substance in accordance with the nomenclature system developed by the International Union of Pure and Applied Chemistry or the system developed by the Chemical Abstracts Service.

(f) "Common name" means any designation or identification, such as a code name, code number, trade name, or brand name, used to identify a substance other than by its chemical name.

(g) "Department" means the State Department of Health Services and "director" means the State Director of Health Services.

(h) "Handle" means to use, generate, process, produce, package, treat, store, emit, discharge, or dispose of a hazardous material in any fashion.

(i) "Handler" means any business which handles a hazardous material.

(j) "Hazardous material" means any material that, because of its quantity, concentration, or physical or chemical characteristics, poses a significant present or potential hazard to human health and safety or to the environment if released into the workplace or the environment. "Hazardous materials" include, but are not limited to, hazardous substances, hazardous waste, and any material which a handler or the administering agency has a reasonable basis for believing that it would be injurious to the health and safety of persons or harmful to the environment if released into the workplace or the environment.

(k) "Hazardous substance" means any substance or chemical product for which one of the following applies:

(1) The manufacturer or producer is required to prepare a MSDS for the substance or product pursuant to the Hazardous Substances Information and Training Act (Chapter 2.5 (commencing with Section 6360) of Part 1 of Division 5 of the Labor Code) or pursuant to any applicable federal law or regulation.

(2) The substance is listed as a radioactive material in Appendix B of Chapter 1 of Title 10 of the Code of Federal Regulations,

maintained and updated by the Nuclear Regulatory Commission.

(3) The substances listed pursuant to Title 49 of the Code of Federal Regulations.

(4) The materials listed in subdivision (b) of Section 6382 of the Labor Code.

(*l*) "Hazardous waste" means hazardous waste, as defined by Sections 25115, 25117, and 25316.

(m) "Office" means the Office of Emergency Services.

(n) "Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, unless permitted or authorized by a regulatory agency.

(o) "SIC Code" means the identification number assigned by the Standard Industrial Classification Code to specific types of businesses.

(p) "Threatened release" means a condition creating a substantial probability of harm, when the probability and potential extent of harm make it reasonably necessary to take immediate action to prevent, reduce, or mitigate damages to persons, property, or the environment.

(q) "Emergency rescue personnel" means any public employee, including, but not limited to, any fireman, firefighter, or emergency rescue personnel, as defined in Section 245.1 of the Penal Code, who responds to any condition caused, in whole or in part, by a hazardous material that jeopardizes, or could jeopardize, public health or safety or the environment.

(r) "City" includes any city and county.

(s) "Trade secret" means trade secrets as defined in subdivision (d) of Section 6254.7 of the Government Code and Section 1060 of the Evidence Code.

25502. (a) Except as provided pursuant to subdivision (b), every county shall implement this chapter as to the handling of hazardous materials in the county. Each county shall ensure full access to, and the availability of, information submitted under this chapter to emergency rescue personnel and other appropriate governmental entities within its jurisdiction.

(b) A city may, by ordinance, assume responsibility for the implementation of this chapter 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 ordinance and shall consult with, and coordinate its activities with, the county in which the city is located to avoid duplicating efforts or any misunderstandings regarding the areas, duties, and responsibilities of each administering agency.

(c) The county and any city which assumes responsibility pursuant to subdivision (b) shall designate a department, office, or other agency of the county or city, as the case may be, as the administering agency responsible for administering and enforcing

this chapter. The county and any city which assumes responsibility pursuant to subdivision (b) shall notify the office immediately upon making a designation. A county shall designate an administering agency on or before January 30, 1986.

25503. (a) Not later than May 1, 1986, the office shall adopt, after public hearing and consultation with the office of the State Fire Marshal and other appropriate public entities, regulations for minimum standards for business plans and area plans.

(b) The standards for business plans adopted pursuant to subdivision (a) shall do all of the following:

(1) Set forth minimum requirements of adequacy, and not preclude the imposition of additional or more stringent requirements by local government.

(2) Take into consideration and adjust for the size of the business and the nature of the damage potential of its hazardous materials in establishing standards for subdivisions (b) and (c) of Section 25504.

(3) Take into account the existence of local area and business plans which meet the requirements of this chapter so as to minimize the duplication of local efforts, consistent with the objectives of this chapter.

(4) Include an optional model reporting form.

(5) Define what releases are required to be reported pursuant to Section 25507. The office shall consider the existing federal reporting requirements in determining a definition of reporting releases pursuant to Section 25507.

(c) An administering agency shall establish an area plan for emergency response to a release or threatened release of a hazardous material within its jurisdiction. The area plans shall meet the standards prepared by the office pursuant to subdivision (a). They shall also include, at a minimum, provisions for all of the following:

(1) Procedures and protocols for emergency rescue personnel, including the safety and health of those personnel.

(2) Preemergency planning.

(3) Notification and coordination of onsite activities with state, local, and federal agencies, responsible parties, and special districts.

(4) Training of appropriate employees.

(5) Onsite public safety and information.

(6) Required supplies and equipment.

(7) Access to emergency response contractors and hazardous waste disposal sites.

(8) Incident critique and followup.

(d) The administering agency shall submit a copy of the proposed area plan, within 120 days after adoption of area plan standards, to the office for review. The office shall notify the administering agency as to whether the area plan is adequate and meets the area plan standards. The administering agency shall within 45 days of this notice submit a corrected area plan.

(e) An administering agency shall submit to the office, along with its area plan, both of the following;

(1) The basic provisions of a plan to conduct onsite inspections of businesses subject to this chapter by either the administering agency or other appropriate entity. These inspections shall ensure compliance with this chapter and shall identify existing safety hazards or suggest preventative measures designed to minimize the risk of the release of hazardous material into the workplace or environment.

(2) A plan to institute a data management system which will assist in the efficient access to and utilization of information collected under this chapter.

25503.5. (a) Within the boundaries of each county and any city which has assumed responsibility for the implementation of this chapter pursuant to Section 25502, any business, except as provided in subdivision (b), which handles a hazardous material shall establish a business plan for emergency response to a release or threatened release of a hazardous material in accordance with the standards adopted pursuant to Section 25503.

(b) (1) Hazardous material contained solely in a consumer product direct for distribution to, and use by, the general public is exempt from the business plan requirements of this chapter unless the administering agency has found, and has provided notice to the business handling the product, that the handling of certain quantities of the product requires the submission of a business plan, or any portion thereof, in response to public health, safety, or environmental concerns.

(2) Any business handling less than 500 pounds, 55 gallons, or 200 cubic feet at standard temperature and pressure for compressed gas, in the aggregate at any one time in a month, of a product or formulation containing a hazardous material is exempt from the business plan requirements of this chapter unless the administering agency has found, and has provided notice to the business handling the product or formulation, that the weight or volume limits specified in this paragraph, are to be lowered for a specific hazardous material in response to public health, safety, or environmental concerns.

(3) The administering agency, upon application by a handler, may, exempt a handler from any portion of the business plan upon a written finding that the exemption would not effect the ability of the administering agency and emergency rescue personnel to effectively respond to the release of a hazardous material and that there are unusual circumstances justifying this exemption. The administering agency shall specify in writing the basis for any exemption under this paragraph.

(4) The administering agency upon application by a handler may exempt a hazardous material from the inventory provisions of this chapter upon proof that the material does not pose a significant present or potential hazard to human health and safety or to the environment if released into the workplace or environment. The administering agency shall specify in writing the basis for any

exemption under this paragraph.

(c) The administering agency shall require that all business plans have 24-hour availability to emergency rescue personnel. At the discretion of the administering agency or the emergency rescue personnel, copies of area plans and business plans, or portions thereof, may be maintained by the emergency rescue personnel for their use.

25504. Business plans shall include all of the following:

(a) The inventory of information required by Section 25509 and whatever additional information that the administering agency finds is necessary to protect the health and safety of persons, property, or the environment. Any such information is, however, subject to trade secret protection pursuant to Section 25511.

(b) Emergency response plans and procedures in the event of a reportable release or threatened release of a hazardous material, including, but not limited to, all of the following:

(1) Immediate notification to appropriate local emergency rescue personnel and the office.

(2) Procedures for the mitigation of a release or threatened release to minimize any potential harm or damage to persons, property, or the environment.

(3) Evacuation plans and procedures, including immediate notice, for the business site and for the affected public.

(c) Training for all new employees and annual training, including refresher courses, for all employees in safety procedures in the event of a release or threatened release of a hazardous material, including, but not limited to, familiarity with the plans and procedures specified in subdivision (b).

25505. Not later than six months after the office adopts regulation standards for business plans, each handler shall submit its business plan to the administering agency and certify that it meets the requirements of this chapter. If, after review, the administering agency determines that the handler's business plan is deficient in any way, the administrative agency shall notify the handler of these defects. The handler shall submit a corrected business plan within 30 days of the notice. If a handler fails after reasonable notice to submit a business plan in compliance with this chapter, the administering agency shall immediately take appropriate action to enforce this chapter, including the imposition of civil and criminal penalties specified in this chapter.

(b) In addition to the requirements of Section 25510, whenever a substantial change in the handler's operations occurs which requires a modification of its business plan, the handler shall submit a copy of the plan revisions to the administering agency within 30 days of the operational change.

(c) The handler shall, in any case, review the business plan, submitted pursuant to subdivisions (a) and (b), at least once every two years, to determine if a revision is needed and certify to the administering agency that the review was made and that any

necessary changes were made to the plan and the changes submitted to the administering agency. However, the inventory form shall be completed annually pursuant to Section 25508.

25506. The administering agency shall maintain files of all business plans received and shall index them by street address and company name. The business plan and revisions shall be available for public inspection during the regular working hours of the administering agency. The administering agency shall transmit copies of the business plan or any information contained in the business plan to any state or local agency that makes a request therefor.

25507. The handler shall, upon discovery, immediately report any release or threatened release of a hazardous material to the administering agency, and to the office, in accordance with the regulations adopted pursuant to Section 25503. Each handler shall provide all state, city, or county fire or public health or safety personnel and emergency rescue personnel with access to the handler's facilities.

25508. Unless exempted from the business plan requirements under this chapter, any business which handles a hazardous material shall annually submit a completed inventory form to the administering agency of the county or city in which the business is located.

25509. (a) The inventory form shall include, but shall not be limited to, information on all of the following:

(1) A listing of the chemical name and common names of every hazardous substance handled by the business completing the inventory form.

(2) The category of waste, including the general chemical and mineral composition of the waste listed by probable maximum and minimum concentrations, of every hazardous waste handled by the business completing the inventory form.

(3) The maximum amount of each hazardous material disclosed in paragraphs (1) and (2) which is handled at any one time by the business over the course of the year.

(4) The total estimated amount of each hazardous material disclosed in paragraphs (1) and (2) which is handled by the business throughout the course of the year.

(5) Sufficient information on how and where the hazardous materials disclosed in paragraphs (1) and (2) are handled by the business to allow fire, safety, health, and other appropriate personnel to prepare adequate emergency responses to potential releases of the hazardous materials.

(6) The SIC Code number of the business if applicable.

(7) The name and phone number of the person representing the business and able to assist emergency personnel in the event of an emergency involving the business during nonbusiness hours.

(b) The administering agency may permit the reporting of the amount of hazardous material under this section by ranges, rather

than a specific amount, as long as those ranges provide the information necessary to meet the needs of emergency rescue personnel, to determine the potential hazard from a release of the materials, and meets the purposes of this chapter.

25510. Within 30 days of any one of the following events, any business subject to Section 25508 shall submit an amendment to the inventory form detailing the handling, and the following appropriate information:

(1) A 100 percent or more increase in the quantity of a previously disclosed material.

(2) Any handling of a previously undisclosed hazardous material subject to the inventory requirements of this chapter.

(3) Change of business address.

(4) Change of business ownership.

(5) Change of business name.

25511. (a) If a business believes that the inventory required by this chapter involves the release of a trade secret, the business shall nevertheless make the disclosure to the administering agency, and shall notify the administering agency in writing of that belief on the inventory form. As used in this chapter "trade secret" has the meanings given to it by Section 6254.7 of the Government Code and Section 1060 of the Evidence Code.

(b) Subject to this section, the administering agency shall protect from disclosure any trade secret designated as such by the handler.

(c) Upon receipt of a request for the release of information to the public which includes information which the handler has notified the administering agency is a trade secret pursuant to subdivision (a), the administering agency shall notify the handler in writing of the request by certified mail, return receipt requested. The administering agency shall release the information to the public, but not earlier than 30 days after the date of mailing the notice of the request for information, unless, prior to the expiration of the 30-day period, the handler files an action in an appropriate court for a declaratory judgment that the information is subject to protection under subdivision (b) or for an injunction prohibiting disclosure of the information to the public and promptly notifies the administering agency of that action. This section does not permit a handler to refuse to disclose the information required pursuant to this chapter to the administering agency.

(d) Any information which is confidential pursuant to this section shall not be disclosed to anyone except the following:

(1) An officer or employee of the county or city, the state, or the United States, in connection with the official duties of that officer or employee under any law for the protection of health, or to contractors with the county or city and their employees if, in the opinion of the administering agency, disclosure is necessary and required for the satisfactory performance of a contract, for performance of work, or to protect the health and safety of the employees of the contractor.

(2) Any physician where the physician certifies in writing to the administering agency that the information is necessary to the medical treatment of the physician's patient.

(e) For purposes of this section, fire and emergency rescue personnel and county health personnel operating within the jurisdiction of the county or city shall be considered employees of the county or city, as the case may be.

(f) Any physician who, by virtue of having obtained possession of, or access to, confidential information, and who, knowing that disclosure of the information to the general public is prohibited by this section, knowingly and willfully discloses the information in any manner to any person not entitled to receive it, is guilty of a misdemeanor.

(g) Any officer or employee of the county or city or former officer or employee who, by virtue of that employment or official position, has possession of, or has access to, confidential information, and who, knowing that disclosure of the information to the general public is prohibited by this section, knowingly and willfully discloses the information in any manner to any person not entitled to receive it, is guilty of a misdemeanor. Any contractor with the county or city and any employee of the contractor, who has been furnished information as authorized by this section, shall be considered an employee of the county or city for purposes of this section.

(h) Information certified by appropriate officials of the United States as necessary to be kept secret for national defense purposes shall be accorded the full protections against disclosure as specified by those officials or in accordance with the laws of the United States.

25512. The submission of any information required under this chapter does not affect any other liability or responsibility of a business with regard to safeguarding the health and safety of an employee or any other person.

25513. Each administering county or city may, upon a majority vote of the governing body, adopt a schedule of fees to be collected from each business required to submit a business plan pursuant to this chapter which is within its jurisdiction. The fee shall be set in an amount sufficient to pay only those costs incurred by the county or city in carrying out the provisions of this chapter.

25514. (a) Any business that violates Sections 25503.5 to 25505, inclusive, or Sections 25508 to 25510, inclusive, shall be civilly liable to the administering county or city in an amount of not more than two thousand dollars ($2,000) for each day in which the violation occurs. If the violation results in, or significantly contributes to, an emergency, including a fire, the business shall also be assessed the full cost of the county or city emergency response, as well as the cost of cleaning up and disposing of the hazardous materials.

(b) Any business that knowingly violates Sections 25503.5 to 25505, inclusive, or Sections 25508 to 25510, inclusive, after reasonable notice of the violation shall be civilly liable to the administering county or city in an amount not to exceed five thousand dollars

($5,000) for each day in which the violation occurs.

25515. Any person or business who violates Section 25507 shall, upon conviction, be punished by a fine of not more than twenty-five thousand dollars ($25,000) for each day of violation, or by imprisonment in the county jail for not more than one year, or by both the fine and imprisonment. If the conviction is for a violation committed after a first conviction under this section, the person shall be punished by a fine of not less than two thousand dollars ($2,000) or more than fifty thousand dollars ($50,000) per day of violation, or by imprisonment in the state prison for 16, 20, or 24 months or in the county jail for not more than one year, or by both the fine and imprisonment. Furthermore, if the violation results in, or significantly contributes to, an emergency, including a fire, to which the county or city is required to respond, the person shall also be assessed the full cost of the county or city emergency response, as well as the cost of cleaning up and disposing of the hazardous materials.

25516. When the administering agency determines that a business has engaged in, is engaged in, or is about to engage in any acts or practices which constitute or will constitute a violation of this chapter or any regulation or order promulgated thereunder, and when requested by the administering agency, the city attorney of the city or the district attorney of the county in which those acts or practices have occurred, are occurring, or will occur shall make application to the superior court for an order enjoining the acts or practices or for an order directing compliance, and, upon a showing that the person or business has engaged in, is engaged in, or is about to engage in the acts or practices, a permanent or temporary injunction, restraining order, or other appropriate order may be granted. This section does not prohibit a city attorney or district attorney from seeking the same relief upon the city attorney's or district attorney's own motion.

25517. (a) Any person who provides information which materially contributes to the imposition of a civil penalty, whether by settlement or court order, under Section 25514, as determined by the city attorney or district attorney filing the action, shall be paid a reward by the administering agency pursuant to regulations adopted by the department equal to 10 percent of the amount of the civil penalty collected. No reward paid pursuant to this subdivision shall exceed five thousand dollars ($5,000).

(b) Any person who provides information which materially contributes to the conviction of a person or business under Section 25515, as determined by the city attorney or district attorney filing the action, shall be paid a reward by the administering agency pursuant to regulations adopted by the department equal to 10 percent of the amount of the fine collected and deposited in the county treasury pursuant to Section 1643 of the Penal Code. No reward paid pursuant to this subdivision shall exceed five thousand dollars ($5,000).

(c) No informant shall be eligible for a reward for a violation known to the administering agency, unless the information materially contributes to the imposition of criminal or civil penalties for a violation specified in this section.

(d) If there is more than one informant for a single violation, the person making the first notification received by the department shall be eligible for the reward, except that, if the notifications are postmarked on the same day or telephoned notifications are received on the same day, the reward shall be divided equally among those informants.

(e) Public officers and employees of the United States, the State of California, or counties and cities in this state are not eligible for the reward pursuant to subdivision (a) or (b), unless the providing of the information does not relate in any manner to their responsibilities as public officers or employees.

(f) An informant who is an employee of a business and who provides information that the business has violated this chapter is not eligible for a reward if the employee intentionally or negligently caused the violation or if the employee's primary and regular responsibilities included investigating the violation, unless the business knowingly caused the violation.

(g) On or before July 1, 1986, the department shall adopt regulations which establish procedures for the receipt and review of claims for payment of rewards for furnishing information materially contributing to the imposition of civil or criminal penalties for a violation specified in this section.

25518. This chapter shall be construed liberally so as to accomplish the intent of the Legislature in protecting the public health and safety and the environment.

25519. If any provision of this chapter or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to that end the provisions of this chapter are severable.

25520. The office, not later than January 10, 1986, shall adopt emergency regulations for the immediate report of release or threatened release of a hazardous material as required by Section 25507 until regulations are adopted pursuant to Section 25503. Regulations adopted pursuant to this section are not subject to review by the Office of Administrative Law.

25521. Subdivision (a) of Section 25504 shall not apply in a county which, prior to January 1, 1985, has adopted an ordinance establishing a program for the management of hazardous materials releases which includes an ongoing facility inspection program to ascertain potential chemical hazards posed by businesses in the county, a comprehensive hazardous material incident response plan, and an ongoing hazardous materials task force responsible for recommending improvements to the program, if the program was developed in accordance with a countywide study completed no

later than July 1, 1983, on the specific needs of the county as to information and training for response to hazardous materials releases, and that study provided for full participation by the public, government, and the regulated community.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for those costs which may be incurred by a local agency or school district because this act (1) 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 or (2) the local agency or school district has authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

CHAPTER 1168

An act to add Section 13825.5 to the Health and Safety Code, to amend Section 98.6 of the Revenue and Taxation Code, and to amend Section 6 of Chapter 107 of the Statutes of 1985, relating to public finance, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1985 Filed with Secretary of State September 28, 1985]

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

SECTION 1. Section 98.6 of the Revenue and Taxation Code is amended to read:

98.6. (a) Notwithstanding any other provision of this chapter, the amount allocated pursuant to Sections 96 or 97, and 98, to a special district, as defined in Article 1 (commencing with Section 2201) of Chapter 3 of Part 4, excluding multicounty districts, and the amount allocated pursuant to Section 75.70 to a special district which is governed by the board of supervisors of a county or whose governing body is the same as the board of supervisors of a county, shall be reduced by an amount computed as follows:

(1) A ratio shall be computed for each of the special districts equal to the amount of state assistance payment for the special district for the 1978–79 fiscal year divided by the sum of the state assistance payment for the special district plus the amount of property tax revenue allocated to the special district for the 1978–79 fiscal year pursuant to Section 26912 of the Government Code.

(2) The amount by which the allocation pursuant to Sections 75.70, 96 or 97, and 98, shall be reduced shall be equal to the allocation multiplied by the factor computed for the district pursuant to paragraph (1).

(3) For the 1984–85 fiscal year and each fiscal year thereafter, the

amount computed for each special district pursuant to this subdivision, other than a special district governed by a county board of supervisors or whose governing board is the same as the county board of supervisors, shall not be greater than the amount computed for the 1983–84 fiscal year.

(4) The total of all amounts computed for special districts within each county shall be deposited in the Special District Augmentation Fund which shall specify amounts for each governing body as defined in Section 16271 of the Government Code and which shall be allocated pursuant to subdivision (b).

(b) There is hereby created a Special District Augmentation Fund in each county to augment the revenues of special districts. On or before June 1 of each year, the governing body shall notify each special district of the estimated amount of funds in the Special District Augmentation Fund available to special districts in the coming fiscal year. The board of supervisors may make loans to special districts pursuant to Section 23010 of the Government Code. The auditor shall, on or before September 30 of each year, notify each governing body, as defined in Section 16271 of the Government Code, of the amount allocated to it pursuant to this section.

Within 15 days of the notice, the governing body shall hold a public hearing for the purpose of determining the distribution of the funds. The governing body shall send written notice to the legislative body of each special district which is not governed by the board of supervisors or the city council and shall publish the notice in a newspaper of general circulation in the county not less than three days prior to the hearing. The notice shall include the amount of funds available to special districts, and the time and place of the hearing.

Within 30 days of the notice of allocation, the governing body shall determine the amount of funds to be disbursed to each special district. In determining the amount of funds to be disbursed to each special district, the governing body shall not:

(1) Consider as district revenues any assessments, charges, or special taxes collected pursuant to Section 50077 or 50078 or Article 16 (commencing with Section 53970) of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code.

(2) Allocate to a district which collected those assessments, charges, or special taxes, an amount less than the amount which would have been allocated to the district had it not collected any assessments, charges, or special taxes.

(3) Consider revenues distributed to the district from the supplemental unsecured property tax revenue as defined in Section 97.1.

(4) Allocate funds to any special district which is governed by the board of supervisors or the city council if the governing body intends that those funds are to be transferred to that county or city upon or after disbursement to the special district, except as reimbursement to the city or county for services rendered to the special district.

(c) In determining the amount of funds to be disbursed to a special district, the governing body may restrict the use of the funds requested by a special district for purposes of capital purchases to those purposes.

(d) The funds provided for by subdivisions (b) and (c) shall be used exclusively for special districts and shall not be used for any general county or municipal expenses, except that:

(1) The governing body may allocate to its general fund an amount not to exceed the actual demonstrated cost of administering the Special District Augmentation Fund, which shall be an amount necessary to reimburse the actual demonstrated expenditures made to carry out the requirements of subdivisions (a) and (b), and also the actual demonstrated cost of providing the assistance requested by special districts, which amount shall not exceed 1 percent of the amount in the fund.

(2) The governing body may allocate to a special account in its general fund an amount not to exceed 1 percent of the amount of the Special District Augmentation Fund to pay only the costs of the following:

(A) Expenses incurred by special districts in the event of an emergency. As used in this subparagraph, "emergency" means a sudden, unexpected occurrence, which threatens the public peace, health, safety, or welfare and which is, or is likely to be, beyond the control of the services, personnel, equipment, or facilities of the special district.

(B) To carry out the purposes of the California Special District Consolidation Assistance Program established pursuant to Chapter 9.5 (commencing with Section 60350) of Division 2 of Title 6 of the Government Code.

(C) To establish a Special District Augmentation Fund loan program. The program funds may be loaned to special districts under those terms and conditions and in those amounts as are specified by the governing body.

(e) Notwithstanding paragraphs (1), (2), and (3) of subdivision (b), the governing body may reduce the allocation to a district which collected those assessments, charges, or special taxes:

(1) To an amount which is generated by that district pursuant to paragraph (2) of subdivision (a).

(2) As a result of an emergency resolution adopted pursuant to Section 29127 of the Government Code.

(f) The county auditor shall disburse funds to the special district in the same manner as disbursements which are made from the county treasurers property tax trust fund.

(g) Disbursements to cities with more than one subsidiary special district may be made to the city. Each city shall distribute these funds to their individual subsidiary special districts in accordance with the city council's final determination.

SEC. 2. Section 13825.5 is added to the Health and Safety Code, to read:

13825.5. Proceedings for district formations may not be initiated until they have been reviewed and approved by the local agency formation commission. This is declaratory of existing law.

SEC. 3. Section 6 of Chapter 107 of the Statutes of 1985 is amended to read:

Sec. 6. The sum of four hundred fifty-two million eight hundred sixty-nine thousand dollars ($452,869,000) is hereby appropriated in accordance with the following schedule:

(a) Four hundred forty-six million five hundred eighty-seven thousand seven hundred nine dollars ($446,587,709) is appropriated for expenditure in the 1984–85 fiscal year in augmentation of, and for the purposes of contingencies or emergencies as provided in, Items 9840-001-001, 9840-001-494, and 9840-011-001 of the Budget Act of 1984 as follows:

(1) From the General Fund to the reserve for contingencies or emergencies in Item 9840-001-001	$422,349,709
(2) From special funds to the reserve for contingencies or emergencies in Item 9840-001-494	$20,803,000
(3) From nongovernmental cost funds to the reserve for contingencies or emergencies in Item 9840-001-988	$3,435,000
(4) From the General Fund to the reserve for contingencies or emergencies (loans) in Item 9840-011-001	($2,000,000)

(b) Six million two hundred eighty-one thousand two hundred ninety-one dollars ($6,281,291) is appropriated from the Federal Revenue Sharing Fund to the General Fund, for transfer by the Controller to Item 5180-111-001 of the Budget Act of 1984, in augmentation of the state's share of the State Supplementary Payment Program for aged, blind, and disabled persons. The appropriation contained in this subdivision shall be expended prior to the expenditure of funds appropriated by subdivision (a) for the same purpose.

(c) (1) Of the amount appropriated in paragraph (1) of subdivision (a), twenty-one million eight hundred thousand dollars ($21,800,000) is for allocation by the Controller in the form of loans to eligible special districts for shortfalls in funding received through supplemental roll tax revenues during the 1984–85 fiscal year.

(2) Notwithstanding Section 16314 of the Government Code, no loan made pursuant to paragraph (1) shall require the payment of interest. These loans shall be available only to those special districts whose shortfall in funding received through supplemental roll tax revenues during the 1984–85 fiscal year is at least five hundred dollars ($500) and shall be made only upon application to the Controller by each special district, in the form and the manner prescribed by the

Controller. The actual amount allocated to each eligible special district by the Controller shall be in accordance with the provisions of Section 16111.5 of the Government Code. The amount loaned to any special district for the 1984–85 fiscal year shall be repaid to the Controller from proceeds which the borrowing special district receives from the supplemental roll tax revenues attributable to the 1984–85 fiscal year after June 30, 1985. The Controller may require each county auditor to repay these loans on behalf of all special districts in the county to which loans were made. The county auditor may recover his or her administrative costs in making repayment from each borrowing special district in proportion to the amount of its loan.

(d) Notwithstanding any other provision of law, inasmuch as any special district has not repaid a loan obtained pursuant to subdivision (c) and the district has received supplemental property tax revenues attributable to the 1984–85 fiscal year after June 30, 1985, the Controller shall withhold from that district the amount of revenue received after June 30, 1985, that is attributable to the 1984–85 fiscal year from the reimbursement for revenue lost by reason of the homeowners' property tax exemption until the loan is repaid in full.

(e) It is the intent of the Legislature that the loans to special districts for shortfalls in supplemental property tax revenues be provided on a one-time-only basis and, if shortfalls occur in subsequent years, the shortfall shall be financed through other revenue sources available to special districts.

SEC. 4. The Legislature finds and declares that it is necessary to examine the fiscal relationships between the state and special districts, and to develop a stable, predictable system of finance effective for the 1985–86 fiscal year. Special districts require stable financing to adequately plan and provide services. Therefore, it is the intent of this Legislature to further develop the necessary legislation to respond to special districts' needs. Moreover, it is the intent of the Legislature that, in examining the options for adjusting the fiscal base of special districts, consideration be given to providing special districts with stable revenue sources which would not be subject to annual state budgetary decisions.

SEC. 5. No reimbursement shall be made from the State Mandates Claims Fund pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code for costs mandated by the state pursuant to this act. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Part 7 (commencing with Section 17500) and any other provisions of law.

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. This act is an urgency statute necessary for the immediate preservation of 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 1985–86 fiscal year, it is necessary that this act take effect immediately.

CHAPTER 1169

An act to add Section 2085 to the Business and Professions Code, relating to physicians and surgeons.

[Approved by Governor September 28, 1985. Filed with Secretary of State September 28, 1985]

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

SECTION 1. Section 2085 is added to the Business and Professions Code, to read:

2085. (a) Notwithstanding the provisions of Section 2084, a graduate of an approved medical school located in the United States or Canada who has graduated from a special medical school program which does not substantially meet the requirements of Section 2089 with respect to any aspect of curriculum length or content may be approved by the division if the division determines that the applicant has otherwise received adequate instruction in the subjects listed in subdivision (b) of Section 2089. The division may require an applicant under this section to undertake additional education to bring up to standard instruction in the subjects listed in subdivision (b) of Section 2089 as a condition of issuing a physician's and surgeon's certificate. In approving an applicant under this section, the division may take into account the applicant's total relevant academic experience, including performance on standardized national examinations.

(b) Notwithstanding the provisions of subdivision (a) of this section or Sections 2084 and 2089, an applicant who is a graduate of an approved medical school located in the United States or Canada who has graduated from a special medical school program that does not substantially meet the requirements of Section 2089 with respect to any aspect of curriculum length or content shall be presumed to meet the requirements of Sections 2084 and 2089 if the special medical school program has been reviewed and approved by a national accrediting agency approved by the division and recognized by the United States Department of Education. This presumption may be overcome upon a finding by the division that the medical education received by the applicant is not the educational equivalent of the medical education received by graduates of medical schools approved pursuant to subdivision (a) of this section or Section 2084. In making its finding, the division shall consider, at a minimum, the

applicant's total academic and medical training experience prior to and following as well as during medical school, the applicant's performance on standarized national examinations, including the National Board Examinations, the applicant's achievements as a house staff officer, and the number of years of postgraduate medical training completed by the applicant.

CHAPTER 1170

An act to amend Sections 2141, 2144, and 2148 of, to amend and renumber Section 2136 of, to add Sections 2066 and 2437 to, and to repeal Sections 2135, 2142, 2146, 2147, and 2152 of, the Business and Professions Code, relating to physicians and surgeons, and making an appropriation therefor.

[Approved by Governor September 28, 1985 Filed with Secretary of State September 28, 1985]

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

SECTION 1. Section 2066 is added to the Business and Professions Code, to read:

2066. (a) Nothing in this chapter shall be construed to prohibit a foreign medical graduate from engaging in the practice of medicine whenever and wherever required as a part of a clinical service under the following conditions:

(1) The clinical service is in a postgraduate training program approved by the Division of Licensing.

(2) The graduate is registered with the division for the clinical service.

(b) A graduate may so engage in the practice of medicine under this section until the receipt of his or her physician's and surgeon's certificate . If the graduate fails to take the oral and clinical examination without good cause, as determined by the Division of Licensing, or fails to pass the examination and receive a certificate by the completion of the graduate's second year of postgraduate training, all privileges under this section shall automatically cease.

(c) Nothing in this section shall preclude a foreign medical graduate from engaging in the practice of medicine under any other exemption contained in this chapter.

SEC. 2. Section 2135 of the Business and Professions Code is repealed.

SEC. 3. Section 2136 of the Business and Professions Code is amended and renumbered to read:

2135. The Division of Licensing shall issue a physician's and surgeon's certificate on reciprocity to an applicant who meets all of the following requirements:

(a) The applicant holds an unlimited license as a physician and

surgeon in another state which was issued upon:

(1) Successful completion of a resident course of professional instruction equivalent to that specified in Section 2089.

(2) Taking and passing a written examination that is recognized by the division to be equivalent in content to that administered in California.

(b) The applicant has practiced medicine, with an unrestricted license, in that state for at least four years.

(c) The division determines that no disciplinary action has been taken against the applicant by any medical licensing authority and that the applicant has not been the subject of adverse judgments or settlements resulting from the practice of medicine which the division determines constitutes evidence of a pattern of negligence or incompetence.

(d) The applicant takes and passes the clinical competency portion of the written examination in California, administered by the division.

(e) The applicant takes and passes an oral examination administered by the division.

(f) The applicant has not committed any acts or crimes constituting grounds for denial of a certificate under Division 1.5 (commencing with Section 475) or Article 12 (commencing with Section 2220).

SEC. 4. Section 2141 of the Business and Professions Code is amended to read:

2141. (a) An applicant under this article shall file a verified application on a form furnished by the Division of Licensing.

(b) Each application shall include all of the following:

(1) A list of each license to practice medicine issued by a medical licensing authority to the applicant with the date each certificate or license was issued and a description of each certificate or license. The division in its discretion may require the applicant to file an indicia of each certification or licensure. If a certificate or license has been lost, a copy may be filed together with proof satisfactory to the division that the copy is a correct one and that the certificate was issued to the applicant without fraud or misrepresentation.

(2) A list of each medical school or college at which the applicant undertook his or her resident course of professional instruction and all postsecondary educational institutions from which the applicant was graduated, including the period of study at each.

(3) Other information as may be required by the division.

(c) The application shall be accompanied by the reciprocity application fee required in Section 2435.

SEC. 5. Section 2142 of the Business and Professions Code is repealed.

SEC. 6. Section 2144 of the Business and Professions Code is amended to read:

2144. The Division of Licensing may make an independent investigation of the educational qualifications and the ability and

standing of the applicant.

If, after this investigation and any other or further examination or investigation which the division may see fit to make on its own part, it is found that the requirements of the medical licensing authority which issued the applicant's existing license to practice medicine are or were in any degree or particular less than those which were required for the issuance of a physician's and surgeon's certificate in this state at the date of the issuance of the applicant's current certificate, or the applicant has not complied with the alternative provided by Section 2143, the division may deny licensure under this article.

SEC. 7. Section 2146 of the Business and Professions Code is repealed.

SEC. 8. Section 2147 of the Business and Professions Code is repealed.

SEC. 9. Section 2148 of the Business and Professions Code is amended to read:

2148. The Division of Licensing shall administer both written and oral examinations to applicants for reciprocity certificates at least every six months.

SEC. 10. Section 2152 of the Business and Professions Code is repealed

SEC. 11. Section 2437 is added to the Business and Professions Code, to read:

2437. The board may fix a fee for the approval of postgraduate training for clinical service programs approved by the Division of Licensing at an amount equal to the cost to the division of reviewing applications for approval of those programs, but in no event shall the fee exceed four hundred dollars ($400).

CHAPTER 1171

An act to amend Sections 12422 and 60357 of the Government Code, and to amend Section 98.6 of the Revenue and Taxation Code, relating to public finance.

[Approved by Governor September 27, 1985 Filed with Secretary of State September 28, 1985]

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

SECTION 1. Section 12422 of the Government Code is amended to read:

12422. The Controller shall summon county auditors to meet with the Controller or his or her duly authorized representatives, at least once each year, in such groups and at such place or places within the state as may be designated by the Controller for the purpose of discussion of problems dealing with county budget procedure,

reporting of financial transactions of the counties, allocation of property tax revenues, including the Special District Augmentation Fund, and to promote uniformity of procedure in all matters pertaining to the duties of county auditors, throughout the state. The expenses of any county auditor attending the meeting shall be a charge against the funds of the county, to be paid in the same manner as other county charges are paid.

SEC. 2. Section 60357 of the Government Code is amended to read:

60357. All funds received from the Special District Augmentation Fund pursuant to subparagraph (B) of paragraph (2) of subdivision (j) of Section 98.6 of the Revenue and Taxation Code shall be placed in a special account in the general fund of the county. The county shall use these funds exclusively for the purposes of this chapter and not for any general county expenses. The balance in the special account shall not exceed the following:

(a) Two percent of the Special District Augmentation Fund in the current fiscal year for counties with a population of 6,000,000 or more according to the last federal decennial census.

(b) Except as otherwise provided in paragraph (3) of subdivision (j) of Section 98.6 of the Revenue and Taxation Code, 3 percent of the Special District Augmentation Fund in the current fiscal year for all other counties.

SEC. 3. Section 98.6 of the Revenue and Taxation Code is amended to read:

98.6. (a) Notwithstanding any other provision of this chapter, the amount allocated pursuant to Sections 96 or 97, and 98, to a special district, as defined in Article 1 (commencing with Section 2201) of Chapter 3 of Part 4, excluding multicounty districts, and the amount allocated pursuant to Section 75.70 to a special district which is governed by the board of supervisors of a county or whose governing body is the same as the board of supervisors of a county, shall be reduced by an amount computed as follows:

(1) A ratio shall be computed for each of the special districts equal to the amount of state assistance payment for the special district for the 1978–79 fiscal year divided by the sum of the state assistance payment for the special district plus the amount of property tax revenue allocated to the special district for the 1978–79 fiscal year pursuant to Section 26912 of the Government Code.

(2) The amount by which the allocation pursuant to Sections 75.70, 96 or 97, and 98, shall be reduced shall be equal to the allocation multiplied by the factor computed for the district pursuant to paragraph (1).

(3) For the 1984–85 fiscal year and each fiscal year thereafter, the amount computed for each special district pursuant to this subdivision, other than a special district governed by a county board of supervisors or whose governing board is the same as the county board of supervisors, shall not be greater than the amount computed for the 1983–84 fiscal year.

(4) The total of all amounts computed for special districts within each county shall be deposited in the Special District Augmentation Fund which shall specify amounts for each governing body as defined in Section 16271 of the Government Code and which shall be allocated pursuant to subdivision (b).

(b) There is hereby created a Special District Augmentation Fund in each county to augment the revenues of special districts. The auditor shall, on or before September 30 of each year, notify each governing body, as defined in Section 16271 of the Government Code, of the amount allocated to it pursuant to this section.

(c) Within 15 days of the notice, the governing body shall hold a public hearing for the purpose of determining the distribution of the funds. The governing body shall send written notice to the legislative body of each special district which is not governed by the board of supervisors or the city council. The notice shall include all of the following:

(1) The amount of funds disbursed to each special district and the amount of funds disbursed pursuant to subdivision (j) in the past fiscal year.

(2) The total amount of funds computed pursuant to subdivision (a).

(3) The amount of funds proposed to be allocated pursuant to subdivision (j).

(4) The time and place of the hearing.

The governing body shall also publish a notice in a newspaper of general circulation in the county not less than three days prior to the hearing. The published notice shall include the time and place of the hearing.

(d) Within 30 days of the notice of allocation, the governing body shall allocate the funds to special districts, and may allocate funds pursuant to subdivision (j). The governing body shall disburse the entire amount of the fund to special districts during the fiscal year, except for the amounts allocated pursuant to subdivision (j).

(e) In determining the amount of funds to be allocated to each special district, the governing body shall not consider any revenues raised by a special district pursuant to Article 3.6 (commencing with Section 50078) of Chapter 1 of Part 1 of Division 1, or Article 16 (commencing with Section 53970) of Part 1 of Division 2 of Title 5 of the Government Code.

(f) In determining the amount of funds to be allocated to each special district, the governing body may consider the revenues which are raised, or could be raised, by a special district from its enterprise activities.

(g) In determining the amount of funds to be allocated to each special district, the governing body shall not allocate funds to any special district which is governed by the board of supervisors or the city council if the governing body intends that those funds are to be transferred to that county or city upon or after disbursement to the special district, except as reimbursement to the city or county for

services rendered to the special district.

(h) Within 30 days after determining the amount of funds to be allocated, the governing body shall send written notice to the legislative body of each special district which is not governed by the board of supervisors or the city council which shall include:

(1) The total amount of funds computed pursuant to subdivision (a).

(2) The amount of funds allocated to each special district.

(3) The amount of funds allocated pursuant to subdivision (j).

(i) In determining the amount of funds to be allocated to a special district, the governing body may restrict the use of the funds requested by a special district for purposes of capital purchases to those purposes.

(j) The funds allocated pursuant to this section shall be used exclusively for special districts and shall not be used for any general county or municipal expenses, except that:

(1) The governing body may allocate to its general fund an amount not to exceed the actual demonstrated cost of administering the Special District Augmentation Fund, which shall be an amount necessary to reimburse the actual demonstrated expenditures made to carry out the requirements of subdivisions (a) to (i), inclusive, and also the actual demonstrated cost of providing the assistance requested by special districts, which amount shall not exceed 1 percent of the amount in the fund.

(2) The governing body may allocate to a special account in its general fund an amount not to exceed 1 percent of the amount of the Special District Augmentation Fund to pay only the costs of the following:

(A) Expenses incurred by special districts in the event of an emergency. As used in this subparagraph, "emergency" means a sudden, unexpected occurrence which threatens the public peace, health, safety, or welfare and which is or is likely to be beyond the control of the services, personnel, equipment, or facilities of the special district.

(B) To carry out the purposes of the California Special District Consolidation Assistance Program established pursuant to Chapter 9.5 (commencing with Section 60350) of Division 2 of Title 6 of the Government Code.

(3) Notwithstanding the limits of paragraph (2), the governing body of a county with a population of less than 50,000, as determined by the Department of Finance, may allocate an amount not to exceed 2 percent of the fund. Those governing bodies may accumulate in the special account an amount not to exceed 5 percent of the fund over a period of three fiscal years.

(4) The governing body shall disburse to special districts any amount allocated pursuant to this subdivision which is greater than the limits set by paragraphs (2) and (3) in the succeeding fiscal year.

(k) The county auditor shall disburse funds to the special district in the same manner as disbursements which are made from the

county treasurers property tax trust fund.

(*l*) Disbursements to cities with more than one subsidiary special district may be made to the city. Each city shall distribute these funds to their individual subsidiary special districts in accordance with the city council's final determination.

(m) Any interest which accrues to the Special District Augmentation Fund shall be considered part of the fund and shall not be allocated or distributed in any way to the general fund of the governing body.

SEC. 3.5. Section 98.6 of the Revenue and Taxation Code is amended to read:

98.6. (a) Notwithstanding any other provision of this chapter, the amount allocated pursuant to Sections 96 or 97, and 98, to a special district, as defined in Article 1 (commencing with Section 2201) of Chapter 3 of Part 4, excluding multicounty districts, and the amount allocated pursuant to Section 75.70 to a special district which is governed by the board of supervisors of a county or whose governing body is the same as the board of supervisors of a county, shall be reduced by an amount computed as follows:

(1) A ratio shall be computed for each of the special districts equal to the amount of state assistance payment for the special district for the 1978–79 fiscal year divided by the sum of the state assistance payment for the special district plus the amount of property tax revenue allocated to the special district for the 1978–79 fiscal year pursuant to Section 26912 of the Government Code.

(2) The amount by which the allocation pursuant to Sections 75.70, 96 or 97, and 98, shall be reduced shall be equal to the allocation multiplied by the factor computed for the district pursuant to paragraph (1).

(3) For the 1984–85 fiscal year and each fiscal year thereafter, the amount computed for each special district pursuant to this subdivision, other than a special district governed by a county board of supervisors or whose governing board is the same as the county board of supervisors, shall not be greater than the amount computed for the 1983–84 fiscal year.

(4) The total of all amounts computed for special districts within each county shall be deposited in the Special District Augmentation Fund which shall specify amounts for each governing body as defined in Section 16271 of the Government Code and which shall be allocated pursuant to subdivision (b).

(b) There is hereby created a Special District Augmentation Fund in each county to augment the revenues of special districts. On or before June 1 of each year, the governing body shall notify each special district of the estimated amount of funds in the Special District Augmentation Fund available to special districts in the coming fiscal year. The auditor shall, on or before September 30 of each year, notify each governing body, as defined in Section 16271 of the Government Code, of the amount allocated to it pursuant to this section.

(c) Within 15 days of the notice, the governing body shall hold a public hearing for the purpose of determining the distribution of the funds. The governing body shall send written notice to the legislative body of each special district which is not governed by the board of supervisors or the city council. The notice shall include all of the following:

(1) The amount of funds disbursed to each special district and the amount of funds disbursed pursuant to subdivision (j) in the past fiscal year.

(2) The amount of funds computed pursuant to subdivision (a).

(3) The amount of funds proposed to be allocated pursuant to subdivision (j).

(4) The time and place of the hearing.

The governing body shall also publish the notice in a newspaper of general circulation in the county not less than three days prior to the hearing. The published notice shall include the time and place of the hearing.

(d) Within 30 days of the notice of allocation, the governing body shall allocate the funds to special districts, and may allocate funds pursuant to subdivision (j). The governing body shall disburse the entire amount of the fund to special districts during the fiscal year, except for the amounts allocated pursuant to subdivision (j).

(e) In determining the amount of funds to be disbursed to each special district, the governing body shall not consider any revenues raised by a special district pursuant to Article 3.6 (commencing with Section 50078) of Chapter 1 of Part 1 of Division 1, or Article 16 (commencing with Section 53970) of Chapter 4 of Part 1 of Division 2, of Title 5 of, the Government Code.

(f) In determining the amount of funds to be allocated to each special district, the governing body may consider the revenues which are raised, or could be raised, by a special district from its enterprise activities.

(g) In determining the amount of funds to be allocated to each special district, the governing body shall not allocate funds to any special district which is governed by the board of supervisors or the city council if the governing body intends that those funds are to be transferred to that county or city upon or after disbursement to the special district, except as reimbursement to the city or county for services rendered to the special district.

(h) Within 30 days after determining the amount of funds to be allocated, the governing body shall send written notice to the legislative body of each special district which is not governed by the board of supervisors or the city council which shall include:

(1) The total amount of funds computed pursuant to subdivision (a).

(2) The amount of funds allocated to each special district.

(3) The amount of funds allocated pursuant to subdivision (j).

(i) In determining the amount of funds to be disbursed to a special district, the governing body may restrict the use of the funds

requested by a special district for purposes of capital purchases to those purposes.

(j) The funds allocated pursuant to this section shall be used exclusively for special districts and shall not be used for any general county or municipal expenses, except that:

(1) The governing body may allocate to its general fund an amount not to exceed the actual demonstrated cost of administering the Special District Augmentation Fund, which shall be an amount necessary to reimburse the actual demonstrated expenditures made to carry out the requirements of subdivisions (a) to (i), inclusive, and also the actual demonstrated cost of providing the assistance requested by special districts, which amount shall not exceed 1 percent of the amount in the fund.

(2) The governing body may allocate to a special account in its general fund an amount not to exceed 1 percent of the amount of the Special District Augmentation Fund to pay only the costs of the following:

(A) Expenses incurred by special districts in the event of an emergency. As used in this subparagraph, "emergency" means a sudden, unexpected occurrence which threatens the public peace, health, safety, or welfare and which is, or is likely to be, beyond the control of the services, personnel, equipment, or facilities of the special district.

(B) To carry out the purposes of the California Special District Consolidation Assistance Program established pursuant to Chapter 9.5 (commencing with Section 60350) of Division 2 of Title 6 of the Government Code.

(C) To establish a Special District Augmentation Fund Loan program. The program funds may be loaned to special districts under those terms and conditions and in those amounts as are specified by the governing body.

(3) Notwithstanding the limits of paragraph (2), the governing body of a county with a population of less than 50,000, as determined by the Department of Finance, may allocate an amount not to exceed 2 percent of the fund. Those governing bodies may accumulate in the special account an amount not to exceed 5 percent of the fund over a period of three fiscal years.

(4) The governing body shall disburse to special districts any amount allocated pursuant to this subdivision which is greater than the limits set by paragraphs (2) and (3) in the succeeding fiscal year.

(k) The county auditor shall disburse funds to the special district in the same manner as disbursements which are made from the county treasurers property tax trust fund.

(*l*) Disbursements to cities with more than one subsidiary special district may be made to the city. Each city shall distribute these funds to their individual subsidiary special districts in accordance with the city council's final determination.

(m) Any interest which accrues to the Special District Augmentation Fund shall be considered part of the fund and shall

not be allocated or distributed in any way to the general fund of the governing body.

SEC. 4. Section 3.5 of this bill incorporates amendments to Section 98.6 of the Revenue and Taxation Code proposed by both this bill and AB 1096. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1986, (2) each bill amends Section 98.6 of the Revenue and Taxation Code, and (3) this bill is enacted after AB 1096, in which case Section 98.6 of the Revenue and Taxation Code, as amended by AB 1096, shall remain operative only until the operative date of this bill, at which time Section 3.5 of this bill shall become operative, and Section 3 of this bill shall not become operative.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

CHAPTER 1172

An act to amend Section 802 of, and to add Section 868.8 to, the Penal Code, relating to witnesses, and making an appropriation therefor.

[Approved by Governor September 28, 1985 Filed with Secretary of State September 28, 1985]

I am deleting the $160,000 appropriation contained in Section 4 of Senate Bill No. 301

I have deleted the appropriation because the Center for Judicial Education and Research already offers training in handling child witnesses Any additional training in handling of child abuse victims can be achieved within the framework of the existing budget I fully support the remaining provisions of the bill

With this deletion, I approve Senate Bill No 301

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. The Legislature hereby finds and declares that it is necessary to provide alleged child molestation victims with additional consideration and different treatment from that which is afforded to adults. The Legislature intends, by this act, to provide minors under the age of 11 who are alleged sexual offense victims with certain additional rights and protections during their involvement with criminal proceedings. The Legislature also urges the news media to use restraint in revealing the identity of these alleged victims, especially in particularly sensitive cases.

The Legislature further finds and declares that some researchers believe that the alleged child molestation victim who is required to testify in court may experience psychological stress in discussing the

alleged offense, that traditional court procedures may fail to take into account the potential damage to the child witness, that these procedures might exacerbate any damage already done to the child, and that judges who deal with child molestation cases should receive training in the psychological and social issues of child molestation, the basic principles of child protection and development, and techniques that may make the child more cooperative and thus aid the truth-gathering process.

The Legislature further finds and declares that innovative approaches in the legal system's handling of alleged child sexual abuse cases should be adopted to prevent additional trauma to the child. The Legislature finds that some researchers believe that traditional courtroom settings intimidate child witnesses and thus may hinder the truth-gathering process; that in order to elicit information most effectively and to maintain the child's cooperation it may be necessary to create new courtroom configurations, designed to respond to the child's size, limited capacity to communicate, and special needs for comfort, support, and reassurance.

SEC. 2. Section 802 of the Penal Code is amended to read:

802. (a) Except as provided in subdivision (b), prosecution for an offense not punishable by death or imprisonment in the state prison shall be commenced within one year after commission of the offense.

(b) Prosecution for a misdemeanor violation of Section 647a, committed with or upon a minor under the age of 11, shall be commenced within two years after commission of the offense.

SEC. 3. Section 868.8 is added to the Penal Code, to read:

868.8. Notwithstanding any other provision of law, in any criminal proceeding in which the defendant is charged with a violation of Section 243.4, 261, 273a, 273d, 285, 286, 288, 288a, or 289, subdivision (1) of Section 314, or Section 647a, committed with or upon a minor under the age of 11, the court shall take special precautions to provide for the comfort and support of the minor and to protect the minor, from coercion, intimidation, or undue influence as a witness, including, but not limited to, any of the following:

(a) In the court's discretion, the witness may be allowed reasonable periods of relief from examination and cross-examination during which he or she may retire from the courtroom.

(b) Notwithstanding Section 68110 of the Government Code, in his or her discretion, the judge may remove his or her robe if the judge believes that this formal attire intimidates the minor.

SEC. 4. The sum of one hundred sixty thousand dollars ($160,000) is hereby appropriated from the General Fund to the Judicial Council for the necessary expenses involved in the implementation, no later than June 30, 1987, of the inclusion within the judicial education program of a course of instruction regarding the appropriate handling of alleged child abuse victims and in providing continuing educational resources for judges with respect to alleged

child abuse victims by tape or live programs, particularly for those judges who will be dealing with alleged child abuse victims.

CHAPTER 1173

An act to add Chapter 3.7 (commencing with Section 44780) to Part 25 of the Education Code, relating to education, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1985 Filed with Secretary of State September 28, 1985]

I am reducing the appropriation contained in Section 2 of Assembly Bill No 2543 from $500,000 to $25,000 by deleting the $475,000 appropriation amended in schedule (a) (1) for the operation of six international studies resource centers. This will provide the necessary funding to the Department of Education for organizational costs for this program

The demands placed on budget resources require all of us to set priorities The budget enacted in July of 1985 appropriated over $28 billion (from the General Fund) to essential services provided by State government as determined by the legislature and this Administration This represents an 11 5% increase in expenditures over the budget enacted in July of 1984. That increase was for the purpose of funding priority programs while at the same time maintaining our reserve and preserving our fiscal integrity It is imperative that the State of California continues to live within its means

Therefore, while not issuing a final conclusion on the merits the initial appropriation for the centers with this reduction I have determined that it cannot be approved, at this time, if we are to stay on our prescribed course of fiscal responsibility With this reduction, I approve Assembly Bill No 2543

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. Chapter 3.7 (commencing with Section 44780) is added to Part 25 of the Education Code, to read:

CHAPTER 3.7. CALIFORNIA INTERNATIONAL STUDIES PROJECT

44780. The Legislature finds that there has been a significant decline in knowledge and skills related to international affairs and other cultures. This has serious consequences, in view of the growing interrelation of nations and people, and the increasing impact that international factors have on our society in political, economic, and cultural terms. Many occupations require a knowledge of the histories, languages, and traditions of other cultures and the ability to analyze and interpret complex international issues. Our society requires citizens who understand the role of our state and our nation in a rapidly changing world.

The Legislature further finds that many factors contribute to this decline, but that a primary cause is the lack of adequate preparation of teachers in international studies. Few teachers have ever taken an international studies course, and teachers already in the classroom have few opportunities to improve their competence in this field.

Although some colleges and universities are now requiring more courses in international studies and foreign languages, this will not fully address the problem since current teachers will provide the bulk of instruction for many years to come. Therefore, the Legislature recognizes the need to assist current teachers to gain the skills and knowledge necessary to increase the international studies competence of their students. The Legislature further finds that this competence problem is shared by all segments and levels of California education, and that it can best be addressed by cooperatively planned and funded efforts.

An international studies project should therefore be created, to be modeled after the Bay Area Global Education Project, a publicly and privately funded curriculum and staff development project that has earned national acclaim since 1979.

44781. (a) The California International Studies Project is hereby established to provide a cooperative, intersegmental approach to solving the international studies skills problem in California's schools. This project shall be administered by a public or private institution of higher education in this state, selected pursuant to Section 44782, and shall consist of international studies resource centers operated throughout the state by four-year colleges or universities, or by nonprofit agencies in conjunction with four-year colleges and universities.

(b) The project shall include the following elements:

(1) The preparation by world affairs specialists of instructional materials on international issues and cultures appropriate for use in elementary and secondary school classrooms.

(2) In-service training of classroom teachers.

(3) The training of a group of highly skilled and knowledgeable teachers to serve as leading international studies resource practitioners in curriculum and staff development projects. The primary role of these teachers shall be to train other teachers in the knowledge, curriculum, and skills associated with the project.

(4) The development of a support system for teachers learning new international skills, including content training, curriculum demonstrations, instructional resource services, information sharing, and individual assistance and counseling.

(5) Collaboration between elementary and secondary teachers and international teaching and research personnel and colleges, universities, and nonschool international organizations.

(6) Collaboration in colleges and universities between international specialists in history, economics, international relations, foreign languages, and related fields, and specialists in teaching methods and strategies.

(7) Cooperation between schools, regional or county educational agencies, and colleges and universities.

(8) Development of an evaluation process to assess the following:

(A) The attitudes of project site participants toward the effectiveness of the local resource center.

(B) The international skills and knowledge of students in participating schools.

44782. The Superintendent of Public Instruction shall contract, no later than 75 days after the enactment of this chapter, with a public or private institution of higher education in this state for the administration of the project. Notwithstanding any other provision of law, this contract shall be for a term of five years, subject to the availability of funding for this purpose. The superintendent shall select for this purpose the institution that is best able to demonstrate a history of all of the following:

(a) Successful experience directing a comprehensive international studies curriculum and staff development program for elementary and secondary teachers. The institution shall submit documentation from local school districts that clearly indicates their willingness to cooperate in the project by providing payment for a portion of the costs of release time for teacher training.

(b) Obtaining private and public financial support for the development and operation of curriculum and staff development programs.

(c) Developing and operating interdepartmental programs within higher education.

(d) Developing and operating collaborative programs involving colleges, universities, and nonschool organizations having international resources.

44783. (a) The institution selected under Section 44782 shall select international studies resource centers from applicant colleges, universities, and nonprofit agencies to establish and operate the centers throughout the state. The programs to be operated by the centers shall be subject to the review and approval of the administering institution, pursuant to consultation with the advisory committee established under Section 44784.

(b) The program operated by any resource center shall further, as the primary objective of the project, the enhancement of the quality of elementary and secondary school instruction in courses that satisfy the high school graduation requirements set forth in Section 51225.3, with particular emphasis on world history and cultures, economics, and foreign languages. The resource center program shall include, but not be limited to, the following elements:

(1) The preparation by world affairs specialists of instructional materials on international issues and other cultures appropriate for use in elementary and secondary school classrooms.

(2) In-service training of classroom teachers.

(3) The training of a group of highly skilled and knowledgeable teachers to serve as leading international studies resource practitioners in curriculum and staff development projects.

(4) The development of a support system for teachers learning new international skills, including content training, curriculum demonstrations, instructional resource services, information sharing, and individual assistance and counseling.

(5) Collaboration between elementary and secondary teachers and international teaching and research personnel in colleges, universities, and nonschool international organizations.

(6) Collaboration in colleges and universities between international specialists in history, economics, international relations, foreign languages, and related fields, and specialists in teaching methods and strategies.

(7) Cooperation between schools, regional or county educational agencies, and colleges and universities.

(8) The development of an evaluation process to assess the following:

(A) The attitudes of project participants toward the effectiveness of the local resource center.

(B) The international skills and knowledge of students in participating schools.

(9) Systematically improving the international skills of project participants, the teachers to be trained by participants, and, ultimately, students attending elementary, secondary, and postsecondary schools.

(10) Comprehensive planning for curricular revision or enhancement and instructional change.

(11) Integrating the international studies project with any staff development programs provided by staff development and resource centers established in the same geographic area pursuant to Chapter 3.1 (commencing with Section 44670).

(12) Providing financial and personnel support for the international studies project that supplements but does not supplant existing support.

44784. (a) The institution selected under Section 44782 shall be assisted by an advisory committee, the function of which shall be:

(1) To review and comment on plans for the establishment of the resource centers.

(2) To assist in determining criteria for local and private funding matches to be required for the operation of each resource center.

(3) To advise the project on the selection of proposals for funding.

(4) To annually evaluate the project and the designated resource centers in view of the objectives of this chapter, and to recommend appropriate changes. This evaluation shall be reported to the Superintendent of Public Instruction, the Legislature, and the Governor in a manner designed to coincide with the budget process.

(b) The advisory committee shall contain the following members:

(1) Ten members appointed by representatives of higher education, two each to be selected by the President of the University of California, the Chancellor of the California State University, the Chancellor of the California Community Colleges, the Association of Independent California Colleges and Universities, and the California Postsecondary Education Commission. At least one of the appointees of each of these appointing entities shall be an elementary or secondary school classroom teacher with classroom experience in

international studies instruction.

(2) Four public members with special interest or competence in international affairs, representing business, community, and subject area educational organizations, one each to be selected by the Superintendent of Public Instruction, the Governor, the Speaker of the Assembly, and the Senate Committee on Rules.

(3) Three certificated school teachers, or other educators, with classroom experience in international studies instruction, to be designated by the institution selected to operate the project.

44785. The Legislature recognizes that evaluation of the project, which may be accomplished by such methods as teacher attitude surveys and pretesting and posttesting of the international skills and knowledge of the students reached by the program, can serve as a useful tool for self-assessment and improvement of the resource centers.

Each resource center shall conduct an annual evaluation to measure the international skills of students reached by the site program, the attitudes of project site participants toward the effectiveness of the project, the rate of participation by teachers, the application by teachers of training materials and techniques to instructional purposes, the dissemination of training materials and techniques to other teachers, and other information the site directors deem appropriate. The results of this evaluation shall be reported to the advisory committee.

44786. It is the intent of the Legislature that the project operate 18 resource centers distributed geographically throughout the state, with reference to the cultural and ethnic diversity of the state, six of which centers would be established in the 1985–86 fiscal year, six in the 1986–87 fiscal year, and six in the 1987–88 fiscal year, provided that the evaluations provided for under this chapter are found to justify these increases.

44787. State funding for each resource center shall be not less than forty-five thousand dollars ($45,000) but not more than sixty-five thousand dollars ($65,000) per fiscal year, which shall be matched by local and private funds in cash or in-kind equal to at least 50 percent of state funding. The institution administering the project, in consultation with the advisory committee, shall determine the level of state funding for each resource center and the required funding matches.

SEC. 2. (a) The sum of five hundred thousand dollars ($500,000) is hereby appropriated from the General Fund to the Superintendent of Public Instruction for the following purposes:

(1) Four hundred seventy-five thousand dollars ($475,000) for allocation under the contract specified in Section 44782 of the Education Code for the operation in the 1985–86 fiscal year of six international studies resource centers as established by Chapter 3.7 (commencing with Section 44780) of Part 25 of the Education Code.

(2) Twenty-five thousand dollars ($25,000) for initial organizational costs incurred by the State Department of Education

for the purposes of the project set forth in Chapter 3.7 (commencing with Section 44780) of Part 25 of the Education Code.

(b) It is the intent of the Legislature that funding for the California International Studies Project, as established by Chapter 3.7 (commencing with Section 44780) of Part 25 of the Education Code, shall be increased in the annual Budget Act so as to provide for the operation in the 1986–87 fiscal year of 12 international studies resource centers, at an annual cost of nine hundred thousand dollars ($900,000), and in the 1987–88 fiscal year for the operation of a total of 18 centers, at an annual cost of one million three hundred thousand dollars ($1,300,000), provided that the evaluations provided for under Chapter 3.7 are found to justify these increases.

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

In order to implement this necessary and cost-effective program before the 1986–87 school year, it is necessary that this act take effect immediately.

CHAPTER 1174

An act to add Section 868.8 to the Penal Code, relating to witnesses.

[Approved by Governor September 28, 1985 Filed with Secretary of State September 28, 1985]

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

SECTION 1. (a) The Legislature hereby finds and declares that it is necessary to provide alleged child molestation victims with additional consideration and different treatment from that which is afforded to adults. The Legislature intends, by this act, to provide minors under the age of 11 who are alleged sexual offense victims with certain additional rights and protections during their involvement with criminal proceedings. The Legislature also urges the news media to use restraint in revealing the identity of these alleged victims, especially in particularly sensitive cases.

(b) The Legislature further finds and declares that some researchers believe that the alleged child molestation victim who is required to testify in court may experience psychological stress in discussing the alleged offense, that traditional court procedures may fail to take into account the potential damage to the child witness, that these procedures might exacerbate any damage already done to the child, and that judges who deal with child molestation cases should receive training in the psychological and social issues of child molestation, the basic principles of child protection and development, and techniques that may make the child more

cooperative and thus aid the truth-gathering process.

(c) The Legislature further finds and declares that innovative approaches in the legal system's handling of alleged child sexual abuse cases should be adopted to prevent additional trauma to the child. The Legislature finds that some researchers believe that traditional courtroom settings intimidate child witnesses and thus may hinder the truth-gathering process; that in order to elicit information most effectively and to maintain the child's cooperation it may be necessary to create new courtroom configurations, designed to respond to the child's size, limited capacity to communicate, and special needs for comfort, support, and reassurance.

SEC. 2. Section 868.8 is added to the Penal Code, to read:

868.8. Notwithstanding any other provision of law, in any criminal proceeding in which the defendant is charged with a violation of Section 243.4, 261, 273a, 273d, 285, 286, 288, 288a, or 289, subdivision (1) of Section 314, or Section 647a, committed with or upon a minor under the age of 11, the court shall take special precautions to provide for the comfort and support of the minor and to protect the minor from coercion, intimidation, or undue influence as a witness, including, but not limited to, any of the following:

(a) In the court's discretion, the witness may be allowed reasonable periods of relief from examination and cross-examination during which he or she may retire from the courtroom.

(b) Notwithstanding Section 68110 of the Government Code, in his or her discretion, the judge may remove his or her robe if the judge believes that this formal attire intimidates the minor.

(c) In the court's discretion the judge, parties, witnesses, support persons, and court personnel may be relocated within the courtroom to facilitate a more comfortable and personal environment for the child witness.

CHAPTER 1175

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 28, 1985 Filed with Secretary of State September 28, 1985]

I am reducing the appropriation contained in Assembly Bill No. 1301 from $20,851,761 to $6,884,761

I am deleting the $13,967,000 appropriation in Schedule (g) to reimburse claims of water districts for costs incurred under Section 60301 to 60355 of Title 22 of the California Administrative Code. I believe that those costs, which are attributable to additional treatment of reclaimed water prior to its sale, are more appropriately recoverable from the purchasers of the reclaimed water

With this reduction, I approve Assembly Bill No 1301

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. Although reimbursement of the claims paid hereby is not required by Section 6 of Article XIII B of the California Constitution, the sum of twenty million eight hundred fifty-one thousand seven hundred sixty-one dollars ($20, 851,761) is hereby appropriated from the General Fund to the Controller for the payment of claims for reimbursement of state-mandated costs, according to the following schedule:

(a) One hundred thousand dollars ($100,000) to the Controller for the payment of claims of counties seeking reimbursable state-mandated costs incurred pursuant to Chapter 40 of the Statutes of 1982 for the 1982–83, 1983–84, and 1984–85 fiscal years.

(b) Three hundred thirty-four thousand dollars ($334,000) to the Controller for the payment of claims of counties seeking reimbursable state-mandated costs incurred pursuant to Chapter 810 of the Statutes of 1981 for the 1981–82, 1982–83, 1983–84, 1984–85, and 1985–86 fiscal years.

(c) Two million three hundred thousand dollars ($2,300,000) to the Controller for the payment of claims of counties seeking reimbursable state-mandated costs incurred pursuant to Chapter 1088 of the Statutes of 1982 for 1982–83, 1983–84, 1984–85, and 1985–86 fiscal years.

(d) One hundred thirty-four thousand dollars ($134,000) to the Controller for payment of claims of counties seeking reimbursable state-mandated costs incurred pursuant to Chapter 1395 of the Statutes of 1982 and Chapter 1281 of the Statutes of 1983 for the 1982–83 and 1983–84 fiscal years.

(e) Three million four hundred seventy-one thousand seven hundred sixty-one dollars ($3,471,761) to the Controller to cover deficiencies in prior appropriations for reimbursement of costs incurred under state-mandated legislation, as follows:

(1) Chapter 946 of the Statutes of 1977	$ 634,315
(2) Chapter 973 of the Statutes of 1977	180
(3) Chapter 357 of the Statutes of 1978	136,739
(4) Chapter 1262 of the Statutes of 1978	691,375
(5) Chapter 1349 of the Statutes of 1980	211,323
(6) Chapter 1095 of the Statutes of 1981	4,326
(7) Chapter 782 of the Statutes of 1984	1,793,503

(f) One hundred five thousand dollars ($105,000) to the Controller for the payment of claims of cities and counties seeking reimbursable state-mandated costs incurred pursuant to Sections 4500 to 4549, inclusive, of Title 15 of the California Administrative Code for the 1979–80, 1980–81, 1981–82, 1982–83, 1983–84, 1984–85, and 1985–86 fiscal years.

(g) Thirteen million nine hundred sixty-seven thousand dollars ($13,967,000) to the Controller for the payment of claims of water

districts seeking reimbursable state-mandated costs incurred pursuant to Sections 60301 to 60355, inclusive, of Title 22 of the California Administrative Code for the 1981–82, 1982–83, 1983–84, 1984–85, and 1985–86 fiscal years.

(h) Four hundred forty thousand dollars ($440,000) to the Controller for the payment of claims of counties seeking reimbursable state-mandated costs incurred for the 1983–84 fiscal year pursuant to a Governor's Proclamation issued on July 17, 1983.

SEC. 2. (a) Prior to reporting, pursuant to Section 2255 of the Revenue and Taxation Code, any claim under Chapter 45 of the Statutes of 1982, the Commission on State Mandates shall amend the parameters and guidelines for the reimbursement of claims under that chapter to exclude preexisting requirements.

(b) Prior to reporting, pursuant to Section 2255 of the Revenue and Taxation Code, any claim under Chapter 325 of the Statutes of 1981, the Commission on State Mandates shall amend the parameters and guidelines for the reimbursement claims under that chapter to limit reimbursement to one-time administrative costs.

SEC. 3. The Legislature finds and declares that Sections 90 to 101, inclusive, of Title 5 of the California Administrative Code do not impose a state-mandated local program.

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 local government claims against the state for mandated costs and end hardship to local governments, it is necessary for this act to take effect immediately.

CHAPTER 1176

An act to amend Sections 2084, 2089, 2101, 2102, 2113, 2114, 2141, 2144, 2148, and 2435 of, to amend and renumber Section 2136 of, to amend and repeal Sections 2120 and 2177 of, to add Sections 2066, 2085, 2089.5, 2177.5, and 2437 to, to repeal and add Section 2185 of, and to repeal Sections 2135, 2142, 2146, 2147, and 2152 of, the Business and Professions Code, relating to physicians and surgeons, and making an appropriation therefor.

[Became law without Governor's signature Filed with Secretary of State September 29, 1985]

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

SECTION 1. (a) The Legislature recognizes the necessity of individually reviewing applications from graduates of foreign medical schools which have not been approved by the Division of Licensing of the Board of Medical Quality Assurance. The

Legislature declares its intent that, in addition to disapproving foreign medical schools which do not meet California standards, the division shall move toward the approval of foreign medical schools which do meet California standards, either directly by individual school, or indirectly through national, international, or foreign national accrediting organizations.

(b) The Legislature recognizes that the Commission of the Federation of State Medical Boards has signed agreements with the licensing agencies of 50 states, two territories, and the District of Columbia under which it will conduct factfinding inspections of foreign medical schools on behalf of the licensing agencies. The Legislature desires to conserve resources and promote a national, systematic approach to approval of foreign medical schools.

(c) The division shall work with the federation commission to develop a factfinding capability for foreign medical schools, in order that an ongoing program for approving foreign medical schools can be established.

(d) In order to promote the speedy development of a program for approving foreign medical schools, the division or its agents shall conduct, in the 1986–87 fiscal year, site visits to inspect the medical school accreditation systems as well as individual schools of three countries on three different continents. The countries shall be selected so as to represent a diversity of cultural and educational backgrounds. In selecting the countries for site visits, the division shall also take into account the number of medical school graduates from the country seeking licensure in California, and measurements of quality, such as average scores on standardized national examinations. Each site visit shall review the country's medical school accreditation process and shall include visits to one or more medical schools accredited by that process.

(e) The division shall report to the Legislature on or before December 31, 1987, on its site visit findings and the results of the federation commission's factfinding activities upon completion of the site visits. The report shall indicate what actions the division has taken based on reports prepared by the federation commission, including, but not limited to, the number of foreign schools approved and disapproved by the board. The report shall contain (1) an evaluation of proposals to establish an ongoing process of approving foreign medical schools and (2) appropriate policy recommendations to the Legislature.

(f) The division shall also report to the Legislature on the suitability of the individual schools and accreditation processes inspected and shall outline future steps needed to grant approval to those schools and processes.

SEC. 1.5. Section 2066 is added to the Business and Professions Code, to read:

2066. (a) Nothing in this chapter shall be construed to prohibit a foreign medical graduate from engaging in the practice of medicine whenever and wherever required as a part of a clinical

service program under the following conditions:

(1) The clinical service is in a postgraduate training program approved by the Division of Licensing.

(2) The graduate is registered with the division for the clinical service.

(b) A graduate may engage in the practice of medicine under this section until the receipt of his or her physician's and surgeon's certificate. If the graduate fails to take the oral and clinical examination without good cause, as determined by the Division of Licensing, or fails to pass the examination and receive a certificate by the completion of the graduate's second year of postgraduate training, all privileges under this section shall automatically cease.

(c) Nothing in this section shall preclude a foreign medical graduate from engaging in the practice of medicine under any other exemption contained in this chapter.

SEC. 2. Section 2084 of the Business and Professions Code is amended to read:

2084. The Division of Licensing may approve every school which substantially complies with the requirements of this chapter for resident courses of professional instruction. Graduates of medical schools approved under this section shall be deemed to meet the requirements of Section 2089. Medical schools accredited by a national accrediting agency approved by the division and recognized by the United States Department of Education shall be deemed approved by the division under this section. Nothing in this chapter prohibits the division from considering the quality of the resident courses of professional instruction required for certification as a physician and surgeon.

SEC. 3. Section 2085 is added to the Business and Professions Code, to read:

2085. (a) Notwithstanding the provisions of Section 2084, a graduate of an approved medical school located in the United States or Canada who has graduated from a special medical school program which does not substantially meet the requirements of Section 2089 with respect to any aspect of curriculum length or content may be approved by the division if the division determines that the applicant has otherwise received adequate instruction in the subjects listed in subdivision (b) of Section 2089. The division may require an applicant under this section to undertake additional education to bring up to standard, instruction in the subjects listed in subdivision (b) of Section 2089 as a condition of issuing a physician's and surgeon's certificate. In approving an applicant under this section, the division may take into account the applicant's total relevant academic experience, including performance on standardized national examinations.

(b) Notwithstanding the provisions of subdivision (a) of this section or Sections 2084 and 2089, an applicant who is a graduate of an approved medical school located in the United States or Canada who has graduated from a special medical school program that does

not substantially meet the requirements of Section 2089 with respect to any aspect of curriculum length or content shall be presumed to meet the requirements of Sections 2084 and 2089 if the special medical school program has been reviewed and approved by a national accrediting agency approved by the division and recognized by the United States Department of Education.

This presumption may be overcome upon a finding by the division that the medical education received by the applicant is not the educational equivalent of the medical education received by graduates of medical schools approved pursuant to subdivision (a) of this section or Section 2084. In making its finding, the division shall consider, at a minimum, the applicant's total academic and medical training experience prior to and following as well as during medical school, the applicant's performance on standardized national examinations, including the National Board Examinations, the applicant's achievements as a house staff officer, and the number of years of postgraduate medical training completed by the applicant.

SEC. 4. Section 2089 of the Business and Professions Code is amended to read:

2089. (a) Each applicant for a physician's and surgeon's certificate shall show by official transcript or other official evidence satisfactory to the Division of Licensing that he or she has successfully completed a medical curriculum extending over a period of at least four academic years, or 32 months of actual instruction, in a medical school or schools located in the United States or Canada approved by the division, or in a medical school or schools located outside the United States or Canada which otherwise meets the requirements of this section. The total number of hours of all courses shall consist of a minimum of 4,000 hours. At least 80 percent of actual attendance shall be required. If an applicant has matriculated in more than one medical school, the applicant must have matriculated in the medical school awarding the degree of doctor of medicine or its equivalent for at least the last full academic year of medical education received prior to the granting of the degree.

(b) The curriculum for all applicants shall provide for adequate instruction in the following subjects:

Alcoholism and other chemical substance dependency, detection and treatment.

Anatomy, including embryology, histology, and neuroanatomy.

Anesthesia.

Biochemistry.

Child abuse detection and treatment.

Dermatology.

Geriatric medicine.

Human sexuality.

Medicine, including pediatrics.

Neurology.

Obstetrics and gynecology.

Ophthalmology.
Otolaryngology.
Pathology, bacteriology, and immunology.
Pharmacology.
Physical medicine.
Physiology.
Preventive medicine, including nutrition.
Psychiatry.
Radiology, including radiation safety.
Surgery, including orthopedic surgery.
Therapeutics.
Tropical medicine.
Urology.

SEC. 4.5. Section 2089.5 is added to the Business and Professions Code, to read:

2089.5. (a) Clinical instruction in the subjects listed in subdivision (b) of Section 2089 shall be considered adequate if the requirements of subdivision (a) of Section 2089 and the requirements of this section are satisfied.

(b) Instruction in the clinical courses shall total a minimum of 72 weeks in length.

(c) Instruction in the core clinical courses of surgery, medicine, pediatrics, obstetrics and gynecology, and psychiatry shall total a minimum of 36 weeks in length with a minimum of eight weeks instruction in surgery, eight weeks in medicine, six weeks in pediatrics, six weeks in obstetrics and gynecology, and four weeks in psychiatry.

(d) Of the instruction required by subdivision (b), including all of the instruction required by subdivision (c), 54 weeks shall be performed in a hospital that sponsors the instruction and shall meet one of the following:

(1) Is a formal part of the medical school.

(2) Has an approved residency program in family practice or in the clinical area of the instruction for which credit is being sought.

(3) Is formally affiliated with an approved medical school located in the United States or Canada.

(4) Is formally affiliated with a medical school located outside the United States or Canada.

(e) If the institution, specified in subdivision (d), is formally affiliated with a medical school located outside the United States or Canada, it shall meet the following:

(1) The formal affiliation shall be documented by a written contract detailing the relationship between the medical school and hospital and the responsibilities of each.

(2) The school and hospital shall provide to the division a description of the clinical program. The description shall be in sufficient detail to enable the division to determine whether or not the program provides students an adequate medical education. The division shall approve the program if it determines that the program

provides an adequate medical education. If the division does not approve the program, it shall provide its reasons for disapproval to the school and hospital in writing specifying its findings about each aspect of the program that it considers to be deficient and the changes required to obtain approval.

(3) The hospital, if located in the United States, shall be accredited by the Joint Commission of Accreditation of Hospital, and if located in another country, shall be accredited in accordance with the law of that country.

(4) The clinical instruction shall be supervised by a full-time director of medical education, and the head of the department for each core clinical course shall hold a full-time faculty appointment of the medical school and shall be board certified or eligible, or have an equivalent credential in that specialty area appropriate to the country in which the hospital is located.

(5) The clinical instruction shall be conducted pursuant to a written program of instruction provided by the school.

(6) The school shall supervise the implementation of the program on a regular basis, documenting the level and extent of its supervision.

(7) The hospital-based faculty shall evaluate each student on a regular basis and shall document the completion of each aspect of the program for each student.

(8) The hospital shall ensure a minimum daily census adequate to meet the instructional needs of the number of students enrolled in each course area of clinical instruction, but not less than 15 patients in each course area of clinical instruction.

(9) The division, in reviewing the application of a foreign medical graduate, may require the applicant to submit a description of the clinical program, if the division has not previously approved the program, and may require the applicant to submit documentation to demonstrate that the applicant's clinical training met the requirements of this subdivision.

(10) The medical school shall bear the reasonable cost of any site inspection by the division or its agents necessary to determine whether the clinical program offered is in compliance with the provisions of this subdivision.

SEC. 5. Section 2101 of the Business and Professions Code is amended to read:

2101. Any applicant who is not a citizen of the United States or otherwise does not qualify for licensure as a physician and surgeon under Section 2102 whose professional instruction was acquired in a country other than the United States or Canada shall provide evidence satisfactory to the Division of Licensing of compliance with the following requirements in order to be issued a physician's and surgeon's certificate:

(a) Completion in a medical school or schools a resident course of professional instruction equivalent to that required by Section 2089 and issuance to such applicant of a document acceptable to the

division which shows final and successful completion of the course.

(b) Admission or licensure to practice medicine and surgery in a country or other state of the United States wherein licensure requirements are satisfactory to the division.

(c) Certification by the Educational Commission for Foreign Medical Graduates, or its equivalent, as determined by the division. This subdivision shall apply to all applicants who are subject to the provisions of this section and who apply on or after June 1, 1986.

(d) Completion of one year of postgraduate training in a postgraduate training program approved by the division in the United States or Canada.

(e) Pass the written examination as provided under Article 9 (commencing with Section 2170) and an oral examination. An applicant shall be required to meet the requirements specified in subdivision (c) prior to being admitted to the written examination specified in this subdivision. An applicant shall be required to make application to the division and have passed the portion of the written examination specified in this subdivision relating to basic and clinical science (Part I) prior to commencing any clinical service in a hospital in this state.

Nothing in this section prohibits the division from disapproving any foreign medical school or from denying an application if, in the opinion of the division, the professional instruction provided by the medical school or the instruction received by the applicant is not equivalent to that required in Article 4 (commencing with Section 2080).

SEC. 6. Section 2102 of the Business and Professions Code is amended to read:

2102. Any applicant who either (1) is a United States citizen or (2) has filed a declaration of intention to become a United States citizen, a petition for naturalization, or a comparable document, whose professional instruction was acquired in a country other than the United States or Canada shall provide evidence satisfactory to the Division of Licensing of compliance with the following requirements in order to be issued a physician's and surgeon's certificate:

(a) Completion in a medical school or schools of a resident course of professional instruction equivalent to that required by Section 2089 and issuance to such applicant of a document acceptable to the division which shows final and successful completion of the course.

(b) Certification by the Educational Commission for Foreign Medical Graduates, or its equivalent, as determined by the division. This subdivision shall apply to all applicants who are subject to the provisions of this section and who apply on or after June 1, 1986.

(c) Completion of one year of postgraduate training in a postgraduate training program approved by the division in the United States or Canada.

(d) Pass the written examination as provided under Article 9 (commencing with Section 2170) and an oral examination. An applicant shall be required to meet the requirements specified in

subdivision (b) prior to being admitted to the written examination specified in this subdivision. An applicant shall be required to make application to the division and have passed the portion of the written examination specified in this subdivision relating to basic and clinical science (Part I) prior to commencing any clinical service in a hospital in this state.

Nothing in this section prohibits the division from disapproving any foreign medical school or from denying an application if, in the opinion of the division, the professional instruction provided by the medical school or the instruction received by the applicant is not equivalent to that required in Article 4 (commencing with Section 2080).

SEC. 7. Section 2113 of the Business and Professions Code is amended to read:

2113. (a) Any person who does not immediately qualify for a physician's and surgeon's certificate under any of the provisions of this chapter and who is offered by the dean of an approved medical school in this state a full-time faculty position may, after application to and approval by the Division of Licensing, be granted a certificate of registration to engage in the practice of medicine only to the extent that such practice is incident to and a necessary part of his or her duties as approved by the division in connection with such faculty position.

(b) To qualify for such a certificate an applicant shall meet all the following requirements:

(1) Furnish documentary evidence satisfactory to the division that the applicant is a United States citizen or is legally admitted to the United States.

(2) If the applicant is a graduate of a medical school other than in the United States or Canada, furnish documentary evidence satisfactory to the division that he or she has been licensed to practice medicine and surgery for not less than four years in another state or country whose requirements for licensure are satisfactory to the division, or has been engaged in the practice of medicine in the United States for at least four years in approved hospitals, or has completed a combination of such licensure and training.

If the applicant is a graduate of an approved medical school in the United States or Canada, furnish documentary evidence that he or she has completed a resident course of professional instruction as required in Section 2089.

(3) Take and pass an oral examination if required by the division.

(4) The head of the department in which the applicant is to be appointed shall certify in writing to the division that the applicant will be under his or her direction and will not be permitted to practice medicine unless incident to and a necessary part of the applicant's duties as approved by the division in subdivision (a).

(c) A certificate of registration is valid for one year after its issuance. During this period the division may require the registrant to take the written examination required for issuance of a physician's

and surgeon's certificate. If the registrant is required to take the written examination and does not pass, the certificate of registration shall nevertheless be effective for the one-year period issued and if the effective period of the certificate will lapse before the examination may be retaken, the certificate of registration may be renewed, subject to the discretion of the division, for a period not to exceed one year.

(d) If the registrant is a graduate of a medical school other than in the United States or Canada, he or she shall meet the requirements of Section 2101 in order to obtain a physician's and surgeon's certificate. Notwithstanding any other provision of law, the division may accept practice in an appointment pursuant to this section as qualifying time to meet the hospital service requirements in Sections 2101 and 2102, and may, in its discretion, waive the requirement for the written examination specified in Sections 2101 and 2102 in the event the registrant applies for a physician's and surgeon's certificate.

(e) Except to the extent authorized by this section, the registrant shall not engage in the practice of medicine or receive compensation therefor, unless he or she is issued a physician's and surgeon's certificate.

SEC. 8. Section 2114 of the Business and Professions Code is amended to read:

2114. (a) A physician who is a graduate of a medical school other than in the United States or Canada and who is a clearly outstanding physician in fields of medicine or surgery and who has been offered by the dean of a medical school in this state an important full-time academic appointment for which there is a great need to fill may, after application to and approval by the Division of Licensing, be granted a certificate of registration to engage in the practice of medicine only to the extent that such practice is incidental to and is a necessary part of his or her duties as approved by the division in connection with the academic position in the medical school. Such application shall include a review of the credentials of the physician by the division.

(b) The division in its discretion may require the applicant to take and pass an oral or written examination.

(c) The certificate of registration is valid for a period of not more than five years and shall be renewable at the discretion of the division.

(d) A physician who receives and has held a valid certificate of registration under this section for at least two years may apply to the division for a physician's and surgeon's certificate. In applying for a physician's and surgeon's certificate, the physician shall take and pass an oral and comprehensive clinical examination. Notwithstanding any other provision of law, the division shall accept practice in an appointment pursuant to this section as qualifying time to meet the hospital service requirements in Sections 2101 and 2102 and may, in its discretion, waive the requirement for the written examination

specified in Sections 2101 and 2102 in the event the physician applies for a physician's and surgeon's certificate.

(e) Except to the extent authorized by this section, the registrant shall not engage in the practice of medicine or receive compensation therefor, unless he or she is issued a physician's and surgeon's certificate.

SEC. 9. Section 2120 of the Business and Professions Code is amended to read:

2120. Notwithstanding any other provision of law, any applicant whose medical education is satisfactory to the Division of Licensing who has been licensed and who has actively practiced medicine for a period of not less than 14 years in another state or foreign country whose licensure requirements are satisfactory to the division, shall be required to pass only those portions of the written examination provided for in Article 9 (commencing with Section 2170) relating to clinical science and clinical competence and shall be exempt from other portions of the written examination. Until January 1, 1987, this section shall apply only to those applicants who have applied for and taken at least one administration of the written examination provided for in Article 9 (commencing with Section 2170) in California. All applicants who have passed the written examination under this section as of January 1, 1987, shall be deemed to have met the requirements of subdivision (d) of Section 2101 and subdivision (c) of Section 2102 for a period of three years following the date of the examination in which they received a passing score.

This section shall remain in effect only until January 1, 1987, and on that date is repealed.

SEC. 10. Section 2135 of the Business and Professions Code is repealed.

SEC. 11. Section 2136 of the Business and Professions Code is amended and renumbered to read:

2135. The Division of Licensing shall issue a physician's and surgeon's certificate on reciprocity to an applicant who meets all of the following requirements:

(a) The applicant holds an unlimited license as a physician and surgeon in another state which was issued upon:

(1) Successful completion of a resident course of professional instruction equivalent to that specified in Section 2089.

(2) Taking and passing a written examination that is recognized by the division to be equivalent in content to that administered in California.

(b) The applicant has practiced medicine, with an unrestricted license, in that state for at least four years.

(c) The division determines that no disciplinary action has been taken against the applicant by any medical licensing authority and that the applicant has not been the subject of adverse judgments or settlements resulting from the practice of medicine which the division determines constitutes evidence of a pattern of negligence or incompetence.

(d) The applicant takes and passes the clinical competency portion of the written examination in California, administered by the division.

(e) The applicant takes and passes an oral examination administered by the division.

(f) The applicant has not committed any acts or crimes constituting grounds for denial of a certificate under Division 1.5 (commencing with Section 475) or Article 12 (commencing with Section 2220).

SEC. 12. Section 2141 of the Business and Professions Code is amended to read:

2141. (a) An applicant under this article shall file a verified application on a form furnished by the Division of Licensing.

(b) Each application shall include all of the following:

(1) A list of each license to practice medicine issued by a medical licensing authority to the applicant with the date each certificate or license was issued and a description of each certificate or license. The division in its discretion may require the applicant to file an indicia of each certification or licensure. If a certificate or license has been lost, a copy may be filed together with proof satisfactory to the division that the copy is a correct one and that the certificate was issued to the applicant without fraud or misrepresentation.

(2) A list of each medical school or college at which the applicant undertook his or her resident course of professional instruction and all postsecondary educational institutions from which the applicant was graduated, including the period of study at each.

(3) Other information as may be required by the division.

(c) The application shall be accompanied by the reciprocity application fee required in Section 2435.

SEC. 13. Section 2142 of the Business and Professions Code is repealed.

SEC. 14. Section 2144 of the Business and Professions Code is amended to read:

2144. The Division of Licensing may make an independent investigation of the educational qualifications and the ability and standing of the applicant.

If, after this investigation and any other or further examination or investigation which the division may see fit to make on its own part, it is found that the requirements of the medical licensing authority which issued the applicant's existing license to practice medicine are or were in any degree or particular less than those which were required for the issuance of a physician's and surgeon's certificate in this state at the date of the issuance of the applicant's current certificate, or the applicant has not complied with the alternative provided by Section 2143, the division may deny licensure under this article.

SEC. 15. Section 2146 of the Business and Professions Code is repealed.

SEC. 16. Section 2147 of the Business and Professions Code is

repealed.

SEC. 17. Section 2148 of the Business and Professions Code is amended to read:

2148. The Division of Licensing shall administer both written and oral examinations to applicants for reciprocity certificates at least every six months.

SEC. 18. Section 2152 of the Business and Professions Code is repealed.

SEC. 19. Section 2177 of the Business and Professions Code is amended to read:

2177. If the written examination prescribed in this article consists of an examination divided into parts, the applicant may elect to take any part or combination of parts at one examination and complete the examination on the following examination date. Until January 1, 1987, this section shall apply only to those applicants who have applied for and taken at least one administration of the previously required written examination provided for in this article in California. All applicants who have passed the written examination under this section as of January 1, 1987, shall be deemed to have met the requirements of subdivision (d) of Section 2101 and subdivision (c) of Section 2102 for a period of three years following the date of the examination in which they received a passing score.

This section shall remain in effect only until January 1, 1987, and on that date is repealed.

SEC. 20. Section 2177.5 is added to the Business and Professions Code, to read:

2177.5. Applicants who apply on or after January 1, 1986, may elect to take only Part I, the basic and clinical science portion, of the written examination prescribed in this article separately from Part II, the clinical competency portion. A passing score of 75 is required on each part of the examination.

SEC. 21. Section 2185 of the Business and Professions Code is repealed.

SEC. 22. Section 2185 is added to the Business and Professions Code, to read:

2185. Notwithstanding Section 135, an applicant for a physician's and surgeon's certificate who fails to pass the oral examination or any part or parts of the written examination after two attempts shall not be eligible to be reexamined in the oral examination or in that part or parts of the written examination until the applicant presents evidence satisfactory to the division that he or she has completed additional appropriate medical instruction satisfactory to the division in a program conducted under the auspices of a medical school. A failure of any part of the written examination administered in another state shall be considered a failure of that part for purposes of this section, if the division finds that the written examination administered in the other state is the same examination as that administered by the division under this chapter.

SEC. 23. Section 2435 of the Business and Professions Code is

amended to read:

2435. The following fees apply to physician's and surgeon's certificates, certificates of drugless practitioners, and certificates to practice midwifery:

(a) Each applicant for a certificate based upon a national board diplomate certificate, and each applicant for a certificate based on reciprocity, and each applicant for a certificate based upon written examination, shall pay a nonrefundable application and processing fee of one hundred dollars ($100) at the time the application is filed.

(b) Each applicant for a certificate by written examination, unless otherwise provided by this chapter, shall pay an examination fee fixed by the board, which shall equal the actual cost to the board of the purchase of the written examination furnished by the organization pursuant to Section 2176, plus the actual cost to the board of administering the written examination. Such actual cost to the board of administering the written examination that shall be charged to the applicant shall not exceed one hundred dollars ($100). The board may charge the examination fee provided for in this section for any subsequent reexamination of the applicant.

(c) Each applicant who qualifies for a certificate, as a condition precedent to its issuance, in addition to other fees required herein, shall pay an initial license fee, if any. The initial license fee shall be fixed by the board at an amount not less than two hundred dollars ($200), and not to exceed three hundred twenty-five dollars ($325).

(d) The biennial renewal fee shall be fixed by the board at an amount not less than two hundred dollars ($200), and not to exceed three hundred twenty-five dollars ($325). 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) Notwithstanding Section 163.5, the delinquency fee is 10 percent of the biennial renewal fee.

(f) The duplicate certificate, endorsement, certification, and letter of good standing fees shall each be ten dollars ($10).

(g) It is the intent of the Legislature that, in setting fees pursuant to this section, the board shall seek to maintain a reserve in the Contingent Fund of the Board of Medical Quality Assurance equal to approximately four months' operating expenditures.

SEC. 24. Section 2437 is added to the Business and Professions Code, to read:

2437. The board may fix a fee for the approval of postgraduate training for clinical service programs approved by the Division of Licensing at an amount equal to the cost to the division in reviewing applications for approval of those programs, but in no event shall the fee exceed four hundred dollars ($400).

CHAPTER 1177

An act to amend Sections 2101 and 2102 of the Business and Professions Code, relating to physicians and surgeons, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1985 Filed with Secretary of State September 29, 1985]

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

SECTION 1. Section 2101 of the Business and Professions Code is amended to read:

2101. Any applicant who is not a citizen of the United States or otherwise does not qualify for licensure as a physician and surgeon under Section 2102 whose professional instruction was acquired in a country other than the United States or Canada shall provide evidence satisfactory to the Division of Licensing of compliance with the following requirements in order to be issued a physician's and surgeon's certificate:

(a) Completion in a medical school or schools a resident course of professional instruction equivalent to that required by Section 2089 and issuance to such applicant of a document acceptable to the division which shows final and successful completion of the course.

(b) Admission or licensure to practice medicine and surgery in a country or other state of the United States wherein licensure requirements are satisfactory to the division.

(c) Certification by the Educational Commission for Foreign Medical Graduates, or its equivalent, as determined by the division. This subdivision shall apply to all applicants who are subject to the provisions of this section and who apply on or after June 1, 1986.

(d) Completion of one year of postgraduate training in a postgraduate training program approved by the division in the United States or Canada.

(e) Pass the written examination as provided under Article 9 (commencing with Section 2170) and an oral examination. An applicant shall be required to meet the requirements specified in subdivision (c) prior to being admitted to the written examination specified in this subdivision. An applicant shall be required to make application to the division and have passed the portion of the written examination specified in this subdivision relating to basic and clinical science (Part I) prior to commencing any clinical service in a hospital in this state.

Nothing in this section prohibits the division from disapproving any foreign medical school or from denying an application if, in the opinion of the division, the professional instruction provided by the medical school or the instruction received by the applicant is not equivalent to that required in Article 4 (commencing with Section 2080).

SEC. 2. Section 2102 of the Business and Professions Code is amended to read:

2102. Any applicant who either (1) is a United States citizen or (2) has filed a declaration of intention to become a United States citizen, a petition for naturalization, or a comparable document, whose professional instruction was acquired in a country other than the United States or Canada shall provide evidence satisfactory to the Division of Licensing of compliance with the following requirements in order to be issued a physician's and surgeon's certificate:

(a) Completion in a medical school or schools of a resident course of professional instruction equivalent to that required by Section 2089 and issuance to such applicant of a document acceptable to the division which shows final and successful completion of the course.

(b) Certification by the Educational Commission for Foreign Medical Graduates, or its equivalent, as determined by the division. This subdivision shall apply to all applicants who are subject to the provisions of this section and who apply on or after June 1, 1986.

(c) Completion of one year of postgraduate training in a postgraduate training program approved by the division in the United States or Canada.

(d) Pass the written examination as provided under Article 9 (commencing with Section 2170) and an oral examination. An applicant shall be required to meet the requirements specified in subdivision (b) prior to being admitted to the written examination specified in this subdivision. An applicant shall be required to make application to the division and have passed the portion of the written examination specified in this subdivision relating to basic and clinical science (Part I) prior to commencing any clinical service in a hospital in this state.

Nothing in this section prohibits the division from disapproving any foreign medical school or from denying an application if, in the opinion of the division, the professional instruction provided by the medical school or the instruction received by the applicant is not equivalent to that required in Article 4 (commencing with Section 2080).

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 assure as soon as possible that the public receives the best possible medical care, it is necessary for this act to go into immediate effect.

CHAPTER 1178

An act to amend Section 2084 of, and to add Section 2089.5 to, the Business and Professions Code, relating to healing arts.

[Approved by Governor September 28, 1985 Filed with Secretary of State September 29, 1985]

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

SECTION 1. Section 2084 of the Business and Professions Code is amended to read:

2084. The Division of Licensing may approve every school which substantially complies with the requirements of this chapter for resident courses of professional instruction. Graduates of medical schools approved under this section shall be deemed to meet the requirements of Section 2089. Medical schools accredited by a national accrediting agency approved by the division and recognized by the United States Department of Education shall be deemed approved by the division under this section. Nothing in this chapter prohibits the division from considering the quality of the resident courses of professional instruction required for certification as a physician and surgeon

SEC. 2. Section 2089.5 is added to the Business and Professions Code, to read:

2089.5. (a) Clinical instruction in the subjects listed in subdivision (b) of Section 2089 shall be considered adequate if the requirements of subdivision (a) of Section 2089 and the requirements of this section are satisfied.

(b) Instruction in the clinical courses shall total a minimum of 72 weeks in length.

(c) Instruction in the core clinical courses of surgery, medicine, pediatrics, obstetrics and gynecology, and psychiatry shall total a minimum of 36 weeks in length with a minimum of eight weeks instruction in surgery, eight weeks in medicine, six weeks in pediatrics, six weeks in obstetrics and gynecology, and four weeks in psychiatry.

(d) Of the instruction required by subdivision (b), including all of the instruction required by subdivision (c), 54 weeks shall be performed in a hospital that sponsors the instruction and shall meet one of the following:

(1) Is a formal part of the medical school.

(2) Has an approved residency program in family practice or in the clinical area of the instruction for which credit is being sought.

(3) Is formally affiliated with an approved medical school located in the United States or Canada.

(4) Is formally affiliated with a medical school located outside the United States or Canada.

(e) If the institution, specified in subdivision (d), is formally

affiliated with a medical school located outside the United States or Canada, it shall meet the following:

(1) The formal affiliation shall be documented by a written contract detailing the relationship between the medical school and hospital and the responsibilities of each.

(2) The school and hospital shall provide to the division a description of the clinical program. The description shall be in sufficient detail to enable the division to determine whether or not the program provides students an adequate medical education. The division shall approve the program if it determines that the program provides an adequate medical education. If the division does not approve the program, it shall provide its reasons for disapproval to the school and hospital in writing specifying its findings about each aspect of the program that it considers to be deficient and the changes required to obtain approval.

(3) The hospital, if located in the United States, shall be accredited by the Joint Commission on Accreditation of Hospitals, and if located in another country, shall be accredited in accordance with the law of that country.

(4) The clinical instruction shall be supervised by a full-time director of medical education, and the head of the department for each core clinical course shall hold a full-time faculty appointment of the medical school and shall be board certified or eligible, or have an equivalent credential in that specialty area appropriate to the country in which the hospital is located.

(5) The clinical instruction shall be conducted pursuant to a written program of instruction provided by the school.

(6) The school shall supervise the implementation of the program on a regular basis, documenting the level and extent of its supervision.

(7) The hospital-based faculty shall evaluate each student on a regular basis and shall document the completion of each aspect of the program for each student.

(8) The hospital shall ensure a minimum daily census adequate to meet the instructional needs of the number of students enrolled in each course area of clinical instruction, but not less than 15 patients in each course area of clinical instruction.

(9) The division, in reviewing the application of a foreign medical graduate, may require the applicant to submit a description of the clinical program, if the division has not previously approved the program, and may require the applicant to submit documentation to demonstrate that the applicant's clinical training met the requirements of this subdivision.

(10) The medical school shall bear the reasonable cost of any site inspection by the division or its agents necessary to determine whether the clinical program offered is in compliance with the provisions of this subdivision.

CHAPTER 1179

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

[Approved by Governor September 28, 1985 Filed with Secretary of State September 29, 1985]

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

SECTION 1. Notwithstanding any other provision of law, the allocation of property tax revenue in the fiscal years 1979–80 to 1983–84, inclusive, in Sonoma County, as distributed as of March 31, 1985, shall be deemed correct, and only the following reductions or increases in apportionments shall be made for the fiscal years from 1979–80 to 1983–84, inclusive. For the purposes of computing the 1985–86 tax year and subsequent tax years, the amounts included in the 1984–85 tax year for the purpose of correcting distributions for 1979 to 1984 shall not be used. The auditor of Sonoma County shall adjust the next distribution of property tax revenue in amounts to reflect the adjustments identified in the Sonoma County Auditor's Tax Distribution Report for fiscal years 1979–80 to 1983–84, inclusive, dated March 4, 1985, and on file with the Sonoma County Clerk, except that for school districts in Sonoma County, the adjustments provided for in this section shall only apply to those adjustments identified in the auditor's Tax Distribution Report for fiscal years 1981–82 to 1983–84, inclusive.

SEC. 2. Notwithstanding any other provision of law to the contrary, the State Board of Equalization shall take any and all appropriate actions to ensure the placement on the 1985–86 tax rolls of the following districts or areas in Calaveras County:

(a) Three Cent Flat Community Services District.
(b) Lynn Park Acres Community Services District.
(c) Copper Cove Rocky Road Community Services District.
(d) Golden Hills Community Services Area No. 12.
(e) El Rancho Loma Serena Community Services Area No. 10.

SEC. 2.5. With respect to the provisions of Section 1 of this act, the Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of unique circumstances applicable only to Sonoma County. Unlike other counties, the County of Sonoma was unable to comply with the new revenue distribution system because of the lack of a sophisticated computer system necessary as a prerequisite to comply the new method of computation.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program

specified in this act.

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 local taxing agencies of Sonoma County to be immediately relieved of the possibility of litigation and to assure that the County Auditor is free to implement the newly adopted apportionment procedures without duress, and in order that the districts or areas in Calaveras County specified in Section 2 of this act may take full benefit of the 1985–86 tax year, it is necessary that this act take effect immediately.

CHAPTER 1180

An act to amend Sections 21661 and 22407 of, and to add Section 21669.1 to, the Public Utilities Code, relating to aviation.

[Approved by Governor September 28, 1985 Filed with Secretary of State September 29, 1985]

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

SECTION 1. Section 21661 of the Public Utilities Code is amended to read:

21661. This article does not apply to any temporary helicopter landing site, temporary seaplane landing site, ultralight vehicle flightpark, or to airports owned or operated by the United States. To the extent necessary, the department may exempt any other class of airports, pursuant to a reasonable classification or grouping, from any rule or requirement thereof, adopted pursuant to this article, if it finds that its application would be an undue burden on the class and is not required in the interest of public safety.

SEC. 2. Section 21669.1 is added to the Public Utilities Code, to read:

21669.1. (a) Land use conversion involving existing residential communities shall generally be considered the least desirable action for achieving compliance with noise standards regulations adopted by the Department of Transportation pursuant to Section 21669.

(b) Nothing in this section creates a private right of action in any civil litigation.

(c) This section is declaratory of existing regulations of the department.

SEC. 3. Section 22407 of the Public Utilities Code is amended to read:

22407. Each member of the board of directors shall receive compensation in an amount not to exceed one hundred dollars ($100) for each attendance at the meeting of the board held within

the district, which amount shall be fixed from time to time by the board. No director, however, shall receive pay for more than four meetings in any calendar month.

Each director shall be allowed, with the approval of the board, all traveling and other expenses necessarily incurred by the member in the performance of the member's duties.

CHAPTER 1181

An act to amend Section 602 of the Penal Code, relating to crimes, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1985 Filed with Secretary of State September 29, 1985]

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

SECTION 1. Section 602 of the Penal Code is amended to read:

602. Every person who willfully commits a trespass by any of the following acts is guilty of a misdemeanor:

(a) Cutting down, destroying, or injuring any kind of wood or timber standing or growing upon the lands of another.

(b) Carrying away any kind of wood or timber lying on those lands.

(c) Maliciously injuring or severing from the freehold of another anything attached to it, or its produce.

(d) Digging, taking, or carrying away from any lot situated within the limits of any incorporated city, without the license of the owner or legal occupant, any earth, soil, or stone.

(e) Digging, taking, or carrying away from land in any city or town laid down on the map or plan of the city, or otherwise recognized or established as a street, alley, avenue, or park, without the license of the proper authorities, any earth, soil, or stone.

(f) Maliciously tearing down, damaging, mutilating, or destroying any sign, signboard, or notice placed upon, or affixed to, any property belonging to the state, or to any city, county, city and county, town or village, or upon any property of any person, by the state or by an automobile association, which sign, signboard or notice is intended to indicate or designate a road, or a highway, or is intended to direct travelers from one point to another, or relates to fires, fire control, or any other matter involving the protection of the property, or putting up, affixing, fastening, printing, or painting upon any property belonging to the state, or to any city, county, town, or village, or dedicated to the public, or upon any property of any person, without license from the owner, any notice, advertisement, or designation of, or any name for any commodity, whether for sale or otherwise, or any picture, sign, or device intended to call attention

to it.

(g) Entering upon any lands owned by any other person whereon oysters or other shellfish are planted or growing; or injuring, gathering, or carrying away any oysters or other shellfish planted, growing, or on any such lands, whether covered by water or not, without the license of the owner or legal occupant; or destroying or removing, or causing to be removed or destroyed, any stakes, marks, fences, or signs intended to designate the boundaries and limits of any such lands.

(h) Willfully opening, tearing down, or otherwise destroying any fence on the enclosed land of another, or opening any gate, bar, or fence of another and willfully leaving it open without the written permission of the owner, or maliciously tearing down, mutilating, or destroying any sign, signboard, or other notice forbidding shooting on private property.

(i) Building fires upon any lands owned by another where signs forbidding trespass are displayed at intervals not greater than one mile along the exterior boundaries and at all roads and trails entering the lands, without first having obtained written permission from the owner of the lands or the owner's agent, or the person in lawful possession.

(j) Entering any lands, whether unenclosed or enclosed by fence, for the purpose of injuring any property or property rights or with the intention of interfering with, obstructing, or injuring any lawful business or occupation carried on by the owner of the land, the owner's agent or by the person in lawful possession.

(k) Entering any lands under cultivation or enclosed by fence, belonging to, or occupied by, another, or entering upon uncultivated or unenclosed lands where signs forbidding trespass are displayed at intervals not less than three to the mile along all exterior boundaries and at all roads and trails entering the lands without the written permission of the owner of the land, the owner's agent or of the person in lawful possession, and

(1) Refusing or failing to leave the lands immediately upon being requested by the owner of the land, the owner's agent or by the person in lawful possession to leave the lands, or

(2) Tearing down, mutilating, or destroying any sign, signboard, or notice forbidding trespass or hunting on the lands, or

(3) Removing, injuring, unlocking, or tampering with any lock on any gate on or leading into the lands, or

(4) Discharging any firearm.

(*l*) Entering and occupying real property or structures of any kind without the consent of the owner, the owner's agent, or the person in lawful possession.

(m) Driving any vehicle, as defined in Section 670 of the Vehicle Code, upon real property belonging to or lawfully occupied by another and known not to be open to the general public, without the consent of the owner, the owner's agent, or the person in lawful possession.

(n) Refusing or failing to leave land, real property, or structures belonging to or lawfully occupied by another and not open to the general public, upon being requested to leave by (1) a peace officer at the request of the owner, the owner's agent, or the person in lawful possession, and upon being informed by the peace officer that he or she is acting at the request of the owner, the owner's agent, or the person in lawful possession, or (2) the owner, the owner's agent, or the person in lawful possession. The owner, the owner's agent, or the person in lawful possession shall make a separate request to the peace officer on each occasion when the peace officer's assistance in dealing with a trespass is requested. However, a single request for a peace officer's assistance may be made to cover a limited period of time not to exceed 30 days and identified by specific dates, during which there is a fire hazard or the owner, owner's agent or person in lawful possession is absent from the premises or property. In addition, a single request for a peace officer's assistance may be made for a period not to exceed six months when the premises or property is closed to the public and posted as being closed. However, this subdivision shall not be applicable to persons engaged in lawful labor union activities which are permitted to be carried out on the property by the California Agricultural Labor Relations Act, Part 3.5 (commencing with Section 1140) of Division 2 of the Labor Code, or by the National Labor Relations Act.

(o) Entering upon any lands declared closed to entry as provided in Section 4256 of the Public Resources Code, if the closed areas shall have been posted with notices declaring the closure, at intervals not greater than one mile along the exterior boundaries or along roads and trails passing through the lands.

(p) Refusing or failing to leave a public building of a public agency during those hours of the day or night when the building is regularly closed to the public upon being requested to do so by a regularly employed guard, watchman, or custodian of the public agency owning or maintaining the building or property, if the surrounding circumstances are such as to indicate to a reasonable man that the person has no apparent lawful business to pursue.

(q) Knowingly skiing in an area or on a ski trail which is closed to the public and which has signs posted indicating the closure.

(r) Refusing or failing to leave a hotel or motel, where he or she has obtained accommodations and has refused to pay for those accommodations, upon request of the proprietor or manager, and the occupancy is exempt, pursuant to subdivision (b) of Section 1940 of the Civil Code, from Chapter 2 (commencing with Section 1940) of Title 5 of Part 4 of Division 3 of the Civil Code.

(s) Entering upon private property, including contiguous land, real property, or structures thereon belonging to the same owner, whether or not generally open to the public, after having been informed by a peace officer at the request of the owner, the owner's agent, or the person in lawful possession, and upon being informed by the peace officer that he or she is acting at the request of the

owner, the owner's agent, or the person in lawful possession, that the property is not open to the particular person; or refusing or failing to leave the property upon being asked to leave the property in the manner provided in this subdivision.

This subdivision shall apply only to a person who has been convicted of a violent felony, as specified in subdivision (c) of Section 667.5, committed upon the particular private property. A single notification or request to the person as set forth above shall be valid and enforceable under this subdivision unless and until rescinded by the owner, the owner's agent, or the person in lawful possession of the property.

SEC. 1.5. The Legislature hereby authorizes the Department of Corrections to remedy structural and physical deficiencies at the California State Prison at Folsom and the California State Prison at San Quentin in order to comply with a judgment of permanent injunction issued by United States District Court for the Northern District of California in Toussaint v. McCarthy (No. C-73-1422 SAW) and the permanent injunction issued by the Superior Court of the State of California for Marin County in Wilson v. Deukmejian (Marin County No. 103454).

SEC. 2. The sum of one million seventy-two thousand dollars ($1,072,000) is appropriated from the General Fund to the Department of Corrections for the purposes of preparation of architectural and engineering drawings for the renovation of San Quentin and Folsom State Prisons as authorized in Section 1, to be allocated, as follows:

(a) Cell block renovation-adjustment center, laundry renovation, and kitchen repairs at San Quentin ..	339,000
(b) Cell block and kitchen renovation at Folsom.....	733,000

SEC. 3. Notwithstanding the allocation schedule provided by Section 3 of Chapter 1121 of the Statutes of 1984, as amended by Chapter 1133 of the Statutes of 1984, the sum of two million eight hundred sixty-one thousand dollars ($2,861,000) of the unencumbered balance of the appropriation made by that section shall be available to the Department of Corrections for renovation work on San Quentin, to be allocated as follows:

(a) Cell renovation including day labor costs.....	1,600,000
(b) Preliminary plans and working drawings for cell block renovation	961,000
(c) Cost-benefit study of long-range options, including an evaluation of the department's engineering proposals by an independent, third party, structural engineer, which evaluation shall not exceed ten thousand dollars ($10,000) in cost	300,000

SEC. 4. The Department of Corrections shall provide the Legisla-

ture with a report by January 31, 1986, detailing cost benefits of agreed-upon options to address court-ordered renovations at San Quentin. The report shall include a long-term analysis of the department's plans for the future of San Quentin. It is the intent of the Legislature to fund the preferable option so as not to delay the department's efforts to respond to the court orders described in Section 1.

SEC. 5. No reimbursement is required by this act pursuant to 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 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:

It is essential to the public welfare, that the provisions of this act, further guaranteeing the safety of all persons, take effect immediately.

CHAPTER 1182

An act to add and repeal Section 2881.1 of the Public Utilities Code, relating to communications devices for the deaf or severely hearing-impaired.

[Approved by Governor September 28, 1985 Filed with Secretary of State September 29, 1985]

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

SECTION 1. It is the intent of the Legislature that all Californians be able to communicate with their elected representatives in the Legislature.

SEC. 2. Section 2881.1 is added to the Public Utilities Code, to read:

2881.1. (a) In addition to the requirements of Section 2881, the commission shall design and implement a program whereby each telephone corporation shall provide a telecommunications device capable of servicing the needs of the deaf or severely hearing-impaired, together with a single party line, at no charge additional to the basic exchange rate, to any subscriber which is an agency of state government and which the commission determines serves a significant portion of the deaf or severely hearing-impaired population, and to an office located in the State Capitol and selected by the Joint Rules Committee, for purposes of access by the deaf or severely hearing-impaired to Members of the Legislature.

(b) The commission shall permit telephone corporations to recover costs as they are incurred under this section pursuant to subdivision (c) of Section 2881.

(c) This section shall become inoperative on July 1, 1987, and as of January 1, 1988, 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 is repealed.

SEC. 3. (a) The Joint Rules Committee shall provide that a telecommunications device, capable of servicing the needs of the deaf or severely hearing-impaired in accordance with Section 2881 of the Public Utilities Code, shall be available for toll-free public access in the State Capitol.

(b) The Senate and Assembly Contingent Funds shall each bear half of the cost of obtaining and maintaining telecommunications service to the deaf and severely-impaired provided pursuant to this section.

(c) This section shall become inoperative on July 1, 1987, and, as of January 1, 1988, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1988, deletes or extends the dates on which it becomes inoperative and is repealed.

CHAPTER 1183

An act to amend Sections 81006, 81009, 86201, 86203, 86205, 90001, and 90002 of, and to add Sections 82038.5 and 82039.5 to, and to repeal Section 82040 of, and to repeal and add Article 1 (commencing with Section 86100) of Chapter 6 of Title 9 of, the Government Code, relating to the Political Reform Act of 1974, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1985 Filed with Secretary of State September 29, 1985]

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

SECTION 1. Section 81006 of the Government Code is amended to read:

81006. Except as provided in this title, no fee or charge shall be collected by any officer for the filing of any report or statement or for the forms upon which reports or statements are to be prepared.

SEC. 2. Section 81009 of the Government Code is amended to read:

81009. (a) Statements of organization, registration statements, and original campaign statements of persons holding elective state office, candidates for any such office, committees supporting any such officeholder or candidate, and committees supporting or opposing statewide measures, shall be retained by filing officers indefinitely.

(b) Original campaign statements of mayors, city council members, county supervisors, candidates for any of these offices, and committees supporting any officeholder or candidate shall be retained indefinitely, except that original campaign statements of candidates not elected to these offices and of committees supporting candidates not elected to these offices shall be retained by filing officers for a period of not less than five years.

(c) Original campaign statements of all other persons shall be retained by filing officers for a period of not less than seven years.

(d) Original statements of economic interests of persons holding statewide elective office shall be retained by filing officers indefinitely.

(e) Original reports and statements not specified above in this section shall be retained by filing officers for a period of not less than seven years.

(f) Copies of reports or statements shall be retained by the officer with whom they are filed for a period of not less than four years, provided, however, that a filing officer is not required to retain more than one copy of a report or statement.

(g) After an original report or statement or a copy has been on file for at least two years, the officer with whom it is filed may comply with this section by retaining a copy on microfilm or other space-saving materials available for public inspection instead of the original report or statement or copy. Upon request, the officer shall provide copies of such statements pursuant to Section 81008.

SEC. 3. Section 82038.5 is added to the Government Code, to read:

82038.5. "Lobbying firm" means any business entity, including an individual contract lobbyist, which contracts for economic consideration, other than reimbursement for reasonable travel expenses, to communicate directly with any elective state official, agency official, or legislative official for the purpose of influencing legislative or administrative action, if a substantial or regular portion of the activities for which the lobbying firm receives consideration is for the purpose of influencing legislative or administrative action. No business entity is a lobbying firm by reason of activities described in Section 86300.

SEC. 4. Section 82039.5 is added to the Government Code, to read:

82039.5. "Lobbyist employer" means any person, other than a lobbying firm, who:

(a) Employs one or more lobbyists for economic consideration, other than reimbursement for reasonable travel expenses, for the purpose of influencing legislative or administrative action, or

(b) Contracts for the services of a lobbying firm for economic consideration, other than reimbursement for reasonable travel expense, for the purpose of influencing legislative or administrative action.

SEC. 5. Section 82040 of the Government Code is repealed.

SEC. 6. Article 1 (commencing with Section 86100) of Chapter 6 of Title 9 of the Government Code is repealed.

SEC. 7. Article 1 (commencing with Section 86100) of Chapter 6 of Title 9 of the Government Code is added, to read:

Article 1. Registration and Reporting

86100. (a) Individual lobbyists shall prepare lobbyist certifications pursuant to Section 86103 for filing with the Secretary of State as part of the registration of the lobbying firm in which the lobbyist is a partner, owner, officer, or employee or as part of the registration of the lobbyist employer by which the lobbyist is employed.

(b) Lobbying firms shall register with the Secretary of State.

(c) Lobbyist employers as defined in subdivision (a) of Section 82039.5 shall register with the Secretary of State.

(d) Lobbyist employers as defined in subdivision (b) of Section 82039.5 and persons described in subdivision (b) of Section 86115 are not required to register with the Secretary of State but shall file statements pursuant to this article.

86101. Every lobbying firm and lobbyist employer who is required to file a registration statement under this chapter shall register with the Secretary of State no later than 10 days after qualifying as a lobbying firm or lobbyist employer.

86102. Each lobbying firm and lobbyist employer required to file a registration statement under this chapter may be charged not more than twenty-five dollars ($25) per year for each lobbyist required to be listed on its registration statement.

86103. A lobbyist certification shall include:

(a) A recent 3- by 4-inch black and white photograph of the lobbyist.

(b) The lobbyist's full name, business address, and telephone number.

(c) A statement that the lobbyist has read and understands the prohibitions contained in Sections 86203 and 86205.

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

86104. The registration of a lobbying firm shall include:

(a) The full name, business address, and telephone number of the lobbying firm.

(b) A list of the lobbyists who are partners, owners, officers, or employees of the lobbying firm;

(c) The lobbyist certification of each lobbyist in the lobbying firm.

(d) For each person with whom the lobbying firm contracts to provide the following lobbying services:

(1) The full name, business address, and telephone number of the person.

(2) A written authorization signed by the person.

(3) The time period of the contract.

(4) The lobbying interests of the person.

(5) A list of the state agencies whose legislative or administrative actions the lobbying firm will attempt to influence for the person.

(e) The name and title of a partner, owner, or officer of the lobbying firm who is responsible for filing statements and reports and keeping records required by this chapter on behalf of the lobbying firm, and a statement signed by the designated responsible person that he or she has read and understands the prohibitions contained in Sections 86203 and 86205.

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

86105. The registration of a lobbyist employer shall include:

(a) The full name, business address, and telephone number of the lobbyist employer.

(b) A list of the lobbyists who are employed by the lobbyist employer.

(c) The lobbyist certification of each lobbyist employed by the lobbyist employer.

(d) The lobbying interests of the lobbyist employer, and a list of the state agencies whose legislative or administrative actions the lobbyist employer will attempt to influence.

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

86106. Within 20 days after the opening of each regular session of the Legislature, each registered lobbying firm and lobbyist employer shall renew its registration by filing photographs of its lobbyists, authorizations, and a registration statement. Each lobbyist shall renew his or her lobbyist certification in connection with the renewal of registration by the lobbyist's lobbying firm or employer.

86107. (a) If any change occurs in any of the information contained in a registration statement, an appropriate amendment shall be filed with the Secretary of State within 20 days after the change. However, if the change includes the name of a person by whom a lobbying firm is retained, the registration statement of the lobbying firm shall be amended and filed to show that change prior to the lobbying firm's attempting to influence any legislative or administrative action on behalf of that person. Lobbying firms and lobbyist employers shall file a notice of termination within 30 days after ceasing the activity which required registration.

(b) If any change occurs in any of the information contained in a lobbyist certification or if the lobbyist terminates the activity which required the certification, the lobbyist shall submit an amended certification or notice of termination to his or her lobbying firm or lobbyist employer for filing with the Secretary of State within the time limits specified in subdivision (a).

(c) Lobbyists and lobbying firms shall remain subject to Section 86203 for six months after filing a notice of termination.

86108. All information listed on any registration statement and on any amendment, renewal, or notice of termination shall be printed

by the Secretary of State and made public within 30 days after filing.

86109. Within 120 days after the commencement of each regular session of the Legislature, the Secretary of State shall publish a directory of registered individual lobbyists, lobbying firms, and lobbyist employers. The Secretary of State shall publish, from time to time, such supplements to the directory as may be necessary.

86110. Lobbyists, lobbying firms, and lobbyist employers which receive payments, make payments or incur expenses or expect to receive payments, make payments or incur expenses in connection with activities which are reportable pursuant to this chapter shall keep detailed accounts, records, bills, and receipts as shall be required by regulations adopted by the commission to expedite the performance of all obligations imposed by this chapter.

86111. (a) "Activity expense" as used in this chapter means any expense incurred or payment made by a lobbyist, lobbying firm, lobbyist employer or a person described in subdivision (b) of Section 86115, or arranged by a lobbyist or lobbying firm, which benefits in whole or in part any elective state official, legislative official, agency official, state candidate, or a member of the immediate family of one of these individuals. Activity expenses include gifts, honoraria, consulting fees, salaries, and any other form of compensation but do not include campaign contributions.

(b) "Agency official" as used in this chapter means any official of a state agency whose administrative actions the lobbyist, lobbying firm, lobbyist employer, or person described in subdivision (b) of Section 86115 has attempted or is attempting to influence.

86112. When a person is required to report activity expenses pursuant to this article, the following information shall be provided:

(a) The date and amount of each activity expense.

(b) The full name and official position, if any, of the beneficiary of each expense, a description of the benefit, and the amount of benefit.

(c) The full name of the payee of each expense if other than the beneficiary.

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

86113. (a) A lobbyist shall complete and verify a periodic report which contains:

(1) A report of all activity expenses by the lobbyist during the reporting period; and

(2) A report of all contributions of one hundred dollars ($100) or more made or delivered by the lobbyist to any elected state officer or state candidate during the reporting period.

(b) A lobbyist shall provide the original of his or her periodic report to his or her lobbyist employer or lobbying firm within two weeks following the end of each calendar quarter.

86114. Lobbying firms shall file periodic reports containing all of the following:

(a) The full name, address, and telephone number of the lobbying

firm.

(b) The full name, business address, and telephone number of each person who contracted with the lobbying firm for lobbying services, a description of the specific lobbying interests of the person, and the total payments, including fees and the reimbursement of expenses, received from the person for lobbying services during the reporting period.

(c) The total amount of payments received for lobbying services during the period.

(d) The name and title of each partner, owner, officer, and employee of the lobbying firm (whether or not the individual is a lobbyist) who engaged in direct communication with any elective state official, legislative official, or agency official, for the purpose of influencing legislative or administrative action on behalf of a person who contracts with the lobbying firm for lobbying services. This does not include individuals whose actions were purely clerical.

(e) A periodic report completed and verified by each lobbyist in the lobbying firm pursuant to Section 86113.

(f) Each activity expense incurred by the lobbying firm including those reimbursed by a person who contracts with the lobbying firm for lobbying services. A total of all activity expenses of the lobbying firm and all of its lobbyists shall be included.

(g) If the lobbying firm subcontracts with another lobbying firm for lobbying services:

(1) The full name, address, and telephone number of the subcontractor.

(2) The name of the person for whom the subcontractor was retained to lobby.

(3) The total amount of all payments made to the subcontractor.

(h) The date, amount, and the name of the recipient of any contribution of one hundred dollars ($100) or more made by the filer to an elected state officer, a state candidate, a committee controlled by an elected state officer, or state candidate, or a committee primarily formed to support such officers or candidates. If this contribution is reported by the lobbying firm or by a committee sponsored by the lobbying firm in a campaign statement filed pursuant to Chapter 4 which is required to be filed with the Secretary of State, the filer may report only the name of the committee and the identification number of the committee.

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

86115. Subject to the exceptions in Section 86300, the following persons shall file the statements required by Section 86116:

(a) Any lobbyist employer; and

(b) Any person who directly or indirectly makes payments to influence legislative or administrative action of five thousand dollars ($5,000) or more in value in any calendar quarter, unless all of the payments are of the type described in subdivision (c) of Section 82045.

86116. Every person described in Section 86115 shall file periodic reports containing:

(a) The name, business address, and telephone number of the lobbyist employer or other person filing the report.

(b) Information sufficient to identify the nature and interests of the filer, including:

(1) If the filer is an individual, the name and address of the filer's employer, if any, or his or her principal place of business if the filer is self-employed, and a description of the business activity in which the filer or his or her employer is engaged.

(2) If the filer is a business entity, a description of the business activity in which it is engaged.

(3) If the filer is an industry, trade or professional association, a description of the industry, trade, or profession which it represents including a specific description of any portion or faction of the industry, trade, or profession which the association exclusively or primarily represents and, if the association has not more than 50 members, the names of the members; and

(4) If the filer is not an individual, business entity or industry, trade or professional association, a statement of the person's nature and purposes, including a description of any industry, trade, profession, or other group with a common economic interest which the person principally represents or from which its membership or financial support is principally derived. The information required by subdivision (b) need be stated only in the first report filed during a calendar year, except to reflect changes in the information previously reported.

(c) The total amount of payments to each lobbying firm.

(d) The total amount of all payments to lobbyists employed by the filer.

(e) A description of the specific lobbying interests of the filer.

(f) The name and title of each partner, owner, officer, and employee of the filer (whether or not the individual is a lobbyist) who engaged in direct communication with any elective state official, legislative official, or agency official, for the purpose of influencing legislative or administrative action on behalf of the filer. This does not include individuals whose actions were purely clerical.

(g) A periodic report completed and verified by each lobbyist employed by a lobbyist employer pursuant to Section 86113.

(h) Each activity expense of the filer. A total of all activity expenses of the filer shall be included.

(i) The date, amount, and the name of the recipient of any contribution of one hundred dollars ($100) or more made by the filer to an elected state officer, a state candidate, or a committee controlled by an elected state officer or state candidate, or a committee primarily formed to support such officer or candidate. If this contribution is reported by the filer or by a committee sponsored by the filer in a campaign statement filed pursuant to Chapter 4 which is required to be filed with the Secretary of State, the filer may

report only the name of the committee, and the identification number of the committee.

(j) The total of all other payments to influence legislative or administrative action including overhead expenses and all payments to employees who spend 10 percent or more of their compensated time in any one month in activities related to influencing legislative or administrative action.

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

86117. (a) Reports required by Sections 86114 and 86116 shall be filed during the month following each calendar quarter. The period covered shall be from the beginning of the calendar year through the last day of the quarter prior to the month during which the report is filed, except as specified in subdivision (b), and except that the period covered shall not include any information reported in previous reports filed by the same person. When total amounts are required to be reported, totals shall be stated both for the period covered by the statement and for the entire calendar year to date.

(b) The period covered by the first report a person is required to file pursuant to Sections 86114 and 86116 shall begin with the first day of the calendar quarter in which the filer first registered or qualified. On the first report a person is required to file, the total amount shall be stated for the entire calendar quarter covered by the first report.

SEC. 8. Section 86201 of the Government Code is amended to read:

86201. "Gift" as used in this article means a gift made directly or indirectly to any state candidate, elected state officer, or legislative official, or to an agency official of any agency required to be listed on the registration statement of the lobbying firm or the lobbyist employer of the lobbyist.

SEC. 9. Section 86203 of the Government Code is amended to read:

86203. It shall be unlawful for a lobbyist, or lobbying firm, to make gifts to one person aggregating more than ten dollars ($10) in a calendar month, or to act as an agent or intermediary in the making of any gift, or to arrange for the making of any gift by any other person.

SEC. 10. Section 86205 of the Government Code is amended to read:

86205. No lobbyist or lobbying firm shall:

(a) Do anything with the purpose of placing any elected state officer, legislative official, agency official, or state candidate under personal obligation to the lobbyist, the lobbying firm, or the lobbyist's or the firm's employer.

(b) Deceive or attempt to deceive any elected state officer, legislative official, agency official, or state candidate with regard to any material fact pertinent to any pending or proposed legislative or administrative action.

(c) Cause or influence the introduction of any bill or amendment

thereto for the purpose of thereafter being employed to secure its passage or defeat.

(d) Attempt to create a fictitious appearance of public favor or disfavor of any proposed legislative or administrative action or to cause any communication to be sent to any elected state officer, legislative official, agency official, or state candidate in the name of any fictitious person or in the name of any real person, except with the consent of such real person.

(e) Represent falsely, either directly or indirectly, that the lobbyist or the lobbying firm can control the official action of any elected state officer, legislative official, or agency official.

(f) Accept or agree to accept any payment in any way contingent upon the defeat, enactment, or outcome of any proposed legislative or administrative action.

SEC. 11. Section 90001 of the Government Code is amended to read:

90001. Audits and investigations shall be made pursuant to Section 90000 with respect to the reports and statements of:

(a) Each lobbying firm and each lobbyist employer who employs one or more lobbyists shall be subject to an audit on a random basis with these lobbying firms or lobbyist employers having a 25-percent chance of being audited. When a lobbying firm or lobbyist employer is audited, the individual lobbyists who are employed by the lobbying firm or the lobbyist employer shall also be audited.

(b) Each statewide, Supreme Court, court of appeal, or Board of Equalization candidate in a direct primary or general election for whom it is determined that twenty-five thousand dollars ($25,000) or more in contributions have been raised or twenty-five thousand dollars ($25,000) or more in expenditures have been made, whether by the candidate or by a committee or committees controlled by the candidate or whose participation in the direct primary or general election is primarily in support of his or her candidacy. Each statewide candidate whose contributions and expenditures are less than twenty-five thousand dollars ($25,000) shall be subject to an audit on a random basis of 10 percent of the number of such candidates.

(c) Each candidate for the Legislature or superior court judge in a direct primary or general election shall be subject to audit by random selection if it is determined that fifteen thousand dollars ($15,000) or more in contributions have been received or fifteen thousand dollars ($15,000) or more in expenditures have been made, whether by the candidate or by a committee or committees controlled by the candidate or primarily supporting his or her candidacy. Random selection shall be made of 50 percent of the Senate districts, 50 percent of the Assembly districts and 50 percent of the judicial offices contested in an election year.

(d) Each candidate for the Legislature in a special primary or special runoff election for whom it is determined that fifteen thousand dollars ($15,000) or more in contributions have been raised

or fifteen thousand dollars ($15,000) or more in expenditures have been made, whether by the candidate or by a committee or committees controlled by the candidate or primarily supporting his or her candidacy.

(e) Each controlled committee of any candidate who is being audited pursuant to subdivision (b), (c), or (d).

(f) Each committee, other than a committee specified in subdivision (c) of Section 82013, primarily supporting or opposing a candidate who is being audited pursuant to subdivision (b), (c) or (d) if it is determined that the committee has expended more than ten thousand dollars ($10,000).

(g) Each committee, other than a committee specified in subdivision (c) of Section 82013, whose participation is primarily in support of or in opposition to a state measure or state measures if it is determined that the committee has expended more than ten thousand dollars ($10,000) on such measure or measures.

(h) Each committee, other than a committee defined in subdivision (c) of Section 82013, a controlled committee or a committee primarily supporting or opposing a state candidate or measure, if it is determined that the committee has raised or expended more than ten thousand dollars ($10,000) supporting or opposing state candidates or state measures during any calendar year, except that if the commission determines from an audit report that a committee is in substantial compliance with the provisions of the act, the committee thereafter shall be subject to an audit on a random basis with each such committee having a 25-percent chance of being audited.

(i) In accordance with subdivisions (a), (b), (c), and (h), the Fair Political Practices Commission shall select by lot the persons or districts to be audited on a random basis. For campaign audits such selection shall be made in public after the last date for filing the first report or statement following the general or special election for which the candidate ran, or following the election at which the measure was adopted or defeated. For lobbying firm and lobbyist employer audits, such selection shall be made in public annually.

SEC. 12. Section 90002 of the Government Code is amended to read:

90002. (a) Audits and investigations of lobbying firms and lobbyist employers shall be performed on an annual basis and shall cover reports filed during a period of one year.

(b) If a lobbying firm or lobbyist employer keeps a separate account for all receipts and payments for which reporting is required by this chapter, the requirement of an audit under subdivision (a) of Section 90001 shall be satisfied by an audit of that account and the supporting documentation required to be maintained by Section 86110.

(c) No audit or investigation of any candidate, controlled committee, or committee primarily supporting or opposing a candidate or a measure in connection with a report or statement

required by Chapter 4 of this title, shall begin until after the last date for filing the first report or statement following the general, runoff, or special election for the office for which the candidate ran, or following the election at which the measure was adopted or defeated, except that audits and investigations of statewide candidates, their controlled committees, and committees primarily supporting or opposing such statewide candidates supporting candidates who were defeated in the primary election and who are not required to file statements for the general election may begin after the last date for filing the first report or statement following the primary election. When the campaign statements or reports of a candidate, controlled committee, or a committee primarily supporting or opposing a candidate are audited and investigated, the audit and investigation shall cover all campaign statements and reports filed for the primary and general or special or runoff elections and any previous campaign statement or report filed since the last election for that office. When the campaign statements or reports of a committee primarily supporting or opposing a measure are audited and investigated, the audit and investigation shall cover all campaign statements and reports from the beginning date of the first campaign statement filed by the committee in connection with the measure. For all other committees, the audit and investigation shall cover all campaign statements filed during the previous two calendar years.

SEC. 12.5. Section 90002 of the Government Code is amended to read:

90002. (a) Audits and investigations of lobbying firms and lobbyist employers shall be performed on an annual basis and shall cover reports filed during a period of one year.

(b) If a lobbying firm or lobbyist employer keeps a separate account for all receipts and payments for which reporting is required by this chapter, the requirement of an audit under subdivision (a) of Section 90001 shall be satisfied by an audit of that account and the supporting documentation required to be maintained by Section 86110.

(c) No audit or investigation of any candidate, controlled committee, or committee primarily supporting or opposing a candidate or a measure in connection with a report or statement required by Chapter 4 of this title, shall begin until after the last date for filing the first report or statement following the general, runoff or special election for the office for which the candidate ran, or following the election at which the measure was adopted or defeated, except that audits and investigations of statewide candidates, their controlled committees, and committees primarily supporting or opposing such statewide candidates supporting candidates who were defeated in the primary election and who are not required to file statements for the general election may begin after the last date for filing the first report or statement following the primary election. When the campaign statements or reports of a

candidate, controlled committee, or a committee primarily supporting or opposing a candidate are audited and investigated, the audit and investigation shall cover all campaign statements and reports filed for the primary and general or special or runoff elections and any previous campaign statement or report filed pursuant to Section 84200 or 84200.5 since the last election for that office. When the campaign statements or reports of a committee primarily supporting or opposing a measure are audited and investigated, the audit and investigation shall cover all campaign statements and reports from the beginning date of the first campaign statement filed by the committee in connection with the measure. For all other committees, the audit and investigation shall cover all campaign statements filed during the previous two calendar years.

SEC. 13. Section 12.5 of this bill incorporates amendments to Section 90002 of the Government Code proposed by both this bill and SB 726. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1986, (2) each bill amends Section 90002 of the Government Code, and (3) this bill is enacted after SB 726, in which case Section 12 of this bill shall not become operative.

SEC. 13.5. The Legislature finds and declares that the provisions of this act further the purposes of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code.

SEC. 14. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

The current system of lobbyist reporting is generating excessive amounts of extraneous information which tends to obscure the actual impact of lobbyists and their employers upon the legislative process. In order to enable the Fair Political Practices Commission to adopt implementing regulations and forms and produce an instructional manual to provide the public with more relevant and usable information prior to the 1986 legislative elections, it is necessary that this bill take effect immediately.

CHAPTER 1184

An act to amend Section 25356.1 of the Health and Safety Code, relating to hazardous substances.

[Approved by Governor September 28, 1985 Filed with Secretary of State September 29, 1985]

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

SECTION 1. Section 25356.1 of the Health and Safety Code is amended to read:

25356.1. (a) The department, or, if appropriate, the regional water quality control board shall prepare or approve remedial action plans for all sites listed pursuant to Section 25356.

(b) A potentially responsible party may request the department or the regional water quality control board, when appropriate, to prepare or approve a remedial action plan for any site not listed pursuant to Section 25356 if the department or the State Water Resources Control Board determines that a removal or remedial action is required to respond to a release of a hazardous substance. The department or the state board shall respond to a request to prepare or approve a remedial action plan within 90 days of receipt. This subdivision does not affect the authority of any regional water quality control board to issue and enforce a cleanup and abatement order pursuant to Section 13304 of the Water Code or a cease and desist order pursuant to Section 13301 of the Water Code.

(c) All remedial action plans prepared or approved pursuant to this section shall be based upon Section 25350, Subpart F of the National Oil and Hazardous Substances Pollution Contingency Plan (40 C.F.R. Sec. 300.61 et seq.), and upon all of the following factors, to the extent that these factors are consistent with these federal regulations and do not require a less stringent level of cleanup than these federal regulations:

(1) Health and safety risks posed by the conditions at the site. When considering these risks, the department or the regional water quality control board shall consider scientific data and reports which may have a relationship to the site.

(2) The effect of contamination or pollution levels upon present, future, and probable beneficial uses of contaminated, polluted, or threatened resources.

(3) The effect of alternative remedial action measures on the reasonable availability of groundwater resources for present, future, and probable beneficial uses. The department or regional water quality control board shall consider the extent to which remedial action measures are available which use, as a principal element, treatment that significantly reduces the volume, toxicity, or mobility of the hazardous substances, as opposed to remedial actions which do not use this treatment. The department or regional water quality control board shall not select remedial action measures which use offsite transport and disposal of untreated hazardous substances or contaminated materials if practical and cost-effective treatment technologies are available.

(4) Site specific characteristics, including the potential for offsite migration of hazardous substances, the surface or subsurface soil, and the hydrogeologic conditions, as well as preexisting background contamination levels.

(5) Cost effectiveness of alternative remedial action measures. In evaluating the cost effectiveness of proposed alternative remedial action measures, the department or regional water quality control board shall consider, to the extent possible, the total short-term and long-term costs of these actions . Land disposal shall not be deemed the most cost-effective measure merely on the basis of lower short-term cost.

(6) The potential environmental impacts of alternative remedial action measures, including, but not limited to, land disposal of the untreated hazardous substances as opposed to treatment of the hazardous substances to remove or reduce its volume, toxicity, or mobility prior to disposal.

(d) A remedial action plan prepared or approved pursuant to this section shall include a statement of reasons setting forth the basis for the removal and remedial actions selected. The statement shall include an evaluation of each proposed alternative submitted to, or prepared by, the department or the regional water quality control board for a particular site. The statement shall also include an evaluation of the consistency of the removal and remedial actions proposed by the plan with the federal regulations and factors specified in subdivision (c) and shall set forth the reasons for rejection of alternative removal and remedial actions. The statement shall also include a nonbinding preliminary allocation of responsibility among all identifiable potentially responsible parties at a particular site, including those parties which may have been released, or may otherwise be immune, from liability pursuant to this chapter or any other provision of law. Before adopting a final remedial action plan, the department or the regional water quality control board shall prepare or approve a draft remedial action plan and shall do all of the following:

(1) Circulate the draft plan for at least 30 days for public comment.

(2) Notify affected local and state agencies of the removal and remedial actions proposed in the remedial action plan and publish a notice in a newspaper of general circulation in the area affected by the draft remedial action plan. The department or the regional water quality control board shall also post notices in the location where the proposed removal or remedial action would be located and shall notify, by direct mailing, the owners of property contiguous to the site addressed by the plan, as shown in the latest equalized assessment roll.

(3) Hold one or more meetings with the lead and responsible agencies for the removal and remedial actions, the potentially responsible parties for the removal and remedial actions, and the interested public, to provide the public with the information which is necessary to address the issues which concern the public. The information to be provided shall include an assessment of the degree of contamination, the characteristics of the hazardous substances, an estimate of the time required to carry out the removal and remedial

actions, and a description of the proposed removal and remedial actions.

(4) Comply with Section 25358.7.

(e) After complying with subdivision (d), the department or the regional water quality control board shall review and consider any public comments, and shall revise the draft plan, if appropriate. The department or the regional water quality control board shall then issue the final remedial action plan.

(f) A potentially responsible party named in the final remedial action plan issued by the department or the regional water quality control board may seek judicial review of the final remedial action plan pursuant to Section 1085 of the Code of Civil Procedure within 30 days after the final plan is issued. The filing of a petition seeking judicial review of a final remedial action plan shall not stay any removal or remedial action specified in the final plan.

For purposes of judicial review, the court shall uphold the final remedial action plan if the plan is based upon substantial evidence available to the department or the regional water quality control board, as the case may be. This subdivision does not prohibit the court from granting any appropriate relief within its jurisdiction, including, but not limited to, enjoining the expenditure of funds pursuant to paragraph (2) of subdivision (b) of Section 25385.6.

(g) This section does not require the department or a regional water quality control board to prepare a remedial action plan if conditions present at a site present an imminent or substantial endangerment to the public health and safety or to the environment.

(h) Article 2 (commencing with Section 13320), Article 3 (commencing with Section 13330), Article 5 (commencing with Section 13350), and Article 6 (commencing with Section 13360) of Chapter 5 of Division 7 of the Water Code apply to any action or failure to act by a regional water quality control board pursuant to this section.

CHAPTER 1185

An act to amend Section 4560 of the Government Code, relating to state employees.

[Approved by Governor September 28, 1985 Filed with Secretary of State September 29, 1985]

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

SECTION 1. Section 4560 of the Government Code is amended to read:

4560. The Legislature finds and declares that there is a substantial need to provide adequate child care facilities for state employees.

When the state constructs, acquires, or receives as a gift any office

building which can accommodate 700 or more state employees, or when additions, alterations, or repairs are made to existing state-owned office buildings which can accommodate 700 or more state employees, and the additions, alterations, or repairs both change and affect the use of 25 percent of the net square feet area of the building and include the addition to, alteration of, or repair of the first floor, adequate space shall be designated within the building to meet the child care needs of those employees, if a review of those employees slated to occupy the new or renovated building shows sufficient need for child care services for 30 or more children. The review shall be conducted by the Department of General Services and the Governor's Advisory Committee on Child Development Programs established pursuant to Section 8254 of the Education Code. The Director of General Services may secure space in any adequate facility for the same purposes only in the event that all other physical requirements controlling the development of the child care facilities within the office building cannot be utilized, provided that funds for the off-site facilities are made available.

It is the intent of the Legislature that existing state office buildings, at the discretion of the Director of General Services, may be retrofitted to accommodate a child care facility. State funds required for the retrofitting shall be subject to regular budgetary procedures and approvals.

Space designed within a state-owned office building for the child care facility shall comply with the prevailing local and state safety building codes for child care facilities.

The indoor area shall not exceed 2,100 square feet, nor be less than that required to accommodate 30 children, excluding space for restrooms, kitchen facilities, storage areas, and teacher offices. Outdoor play area space shall correspond with the indoor play area as set forth in Title 22 of the California Administrative Code.

Utilization of the space shall be subject to terms and conditions as set forth by the Director of General Services. The terms shall include payment of rent, proof of financial responsibility, and maintenance of space. The space shall be made available to the employees who wish to establish child care facilities at a rate to be established by the Director of General Services based upon the actual cost to the state, the average cost of state-owned space in the area, or the statewide average cost of state-owned space, whichever is less.

The employee-occupants shall be notified in writing by the department or departments occupying the building, of the availability of space to be used for a child care facility no earlier than 180 days prior to the projected date of occupancy of a new building or space provided as the result of additions, alterations, or repairs to an existing state-owned building, and the additions, alterations, or repairs that both change and affect the use of 25 percent of the net square feet area of the building and include the addition to, alteration of, or repair of the first floor. If, within 30 days after full occupancy of a new office building or 30 days after the completion

of additions, alterations, or repairs to an existing state-owned office building, the employee-occupants so desiring have not filed an application with the Secretary of State as a nonprofit corporation for the purpose of organizing a child care center, deposited two months' rent in a commercial or savings account, and entered into a contract with the Department of General Services, the space may be used for any other purpose, as long as no permanent alteration of the space occurs. Other purposes may include, but are not limited to, conference rooms, storage areas, or offices. The space for child care shall be held for the employee-occupants' nonprofit corporation only as long as they pay the monthly rent and meet the terms set forth in the contract. Payment of rent shall commence 30 days after full occupancy of a new office building or 30 days after completion of additions, alterations, or repairs, as specified in this section.

If at a later date, the employee-occupants so desiring (a) file an application with the Secretary of State as a nonprofit corporation for the purpose of organizing a child care facility, (b) deposit two month's rent in a commercial or savings account, and (c) notify the Director of General Services of those actions, then the space shall be reconverted for child care purposes within 180 days of the notice.

Children of whom at least one parent or guardian is a state employee shall be given priority admission, over other children, to the child care facility.

When a child care center has been operative for five years, the Director of General Services shall assess the child care needs of the state employees using the center and the office space needs of the building within which the center is located. If the assessment demonstrates a greater need for office space than for child care, the Director of General Services may close the child care center. Ninety days' written notice shall be given to the director or head teacher of the center of the closure.

This section shall not be construed to apply to those buildings which provide care or 24-hour residential care for patients, inmates, or wards of the state, such as state hospitals and correctional facilities.

CHAPTER 1186

An act to amend Sections 1802.1 and 2981 of the Civil Code, relating to retail installment sales.

[Approved by Governor September 28, 1985 Filed with Secretary of State September 29, 1985.]

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

SECTION 1. Section 1802.1 of the Civil Code is amended to read:

1802.1. "Goods" means tangible chattels bought for use primarily for personal, family or household purposes, including certificates or

coupons exchangeable for such goods, and including goods which, at the time of the sale or subsequently are to be so affixed to real property as to become a part of such real property whether or not severable therefrom, but does not include any vehicle required to be registered under the Vehicle Code, nor any goods sold or leased with such a vehicle if sold under a contract governed by Section 2982 or leased under a contract governed by Section 2985.7. "Goods" also includes a trailer which is sold in conjunction with a vessel, as defined in subdivision (a) of Section 9840 of the Vehicle Code, unless the sales transaction is exempted under Section 1801.4. As used in this section, "trailer" means a vehicle designed solely for carrying vessels.

SEC. 2. Section 2981 of the Civil Code is amended to read:

2981. As used in this chapter, unless the context otherwise requires:

(a) "Conditional sale contract" means:

(1) Any contract for the sale of a motor vehicle between a buyer and a seller, with or without accessories, under which possession is delivered to the buyer and either (A) the title vests in the buyer thereafter only upon the payment of all or a part of the price, or the performance of any other condition, or (B) a lien on the property is to vest in the seller as security for the payment of part or all of the price, or for the performance of any other condition, or

(2) Any contract for the bailment of a moter vehicle between a buyer and a seller, with or without accessories, by which the bailee or lessee agrees to pay as compensation for use a sum substantially equivalent to or in excess of the aggregate value of the vehicle and its accessories, if any, at the time the contract is executed, and by which it is agreed that the bailee or lessee will become, or for no other or for a nominal consideration has the option of becoming, the owner of the vehicle upon full compliance with the terms of the contract.

(b) "Seller" means a person engaged in the business of selling or leasing motor vehicles under conditional sale contracts.

(c) "Buyer" means the person who buys or hires a motor vehicle under a conditional sale contract.

(d) "Person" includes an individual, company, firm, association, partnership, trust, corporation, or other legal entity.

(e) "Cash price" means the amount for which the seller would sell and transfer to the buyer unqualified title to the motor vehicle described in the conditional sale contract, if the property were sold for cash at the seller's place of business on the date the contract is executed, and shall include taxes to the extent imposed on the cash sale and the cash price of accessories or services related to the sale such as delivery, installation, alterations, modifications, improvements, document preparation fees, or a service contract.

(f) "Downpayment" means any payment which the buyer pays or agrees to pay to the seller in cash or property value or money's worth at or prior to delivery by the seller to the buyer of the motor vehicle described in the conditional sale contract. The term shall also include

the amount of any portion of the downpayment the payment of which is deferred until not later than the due date of the second otherwise scheduled payment, if the amount of the deferred downpayment is not subject to a finance charge. The term does not include any administrative finance charge charged, received or collected by the seller as provided in this chapter.

(g) "Amount financed" means the amount required to be disclosed pursuant to paragraph (8) of subdivision (a) of Section 2982.

(h) "Unpaid balance" means the difference between (e) and (f), plus all insurance premiums (except for credit life or disability insurance when the amount thereof is included in the finance charge), which are included in the contract balance, and the total amount paid or to be paid (1) to any public officer in connection with the transaction, and (2) for license, certificate of title, and registration fees imposed by law, and the amount of the state fee for issuance of a certificate of compliance or certificate of waiver pursuant to Section 9889.56 of the Business and Professions Code.

(i) "Finance charge" has the meaning set forth for that term in Section 226.4 of Regulation Z. The term shall not include delinquency charges or collection costs and fees as provided by subdivision (k) of Section 2982, extension or deferral agreement charges as provided by Section 2982.3, or amounts for insurance, repairs to or preservation of the motor vehicle, or preservation of the security interest therein advanced by the holder under the terms of the contract.

(j) "Total of payments" means the amount required to be disclosed pursuant to subdivision (h) of Section 226.18 of Regulation Z. The term includes any portion of the downpayment which is deferred until not later than the second otherwise scheduled payment and which is not subject to a finance charge. The term shall not include amounts for which the buyer may later become obligated under the terms of the contract in connection with insurance, repairs to or preservation of the motor vehicle, preservation of the security interest therein, or otherwise.

(k) "Motor vehicle" means any vehicle required to be registered under the Vehicle Code which is bought for use primarily for personal or family purposes, and does not mean any vehicle which is bought for use primarily for business or commercial purposes or a mobilehome, as defined in Section 18008 of the Health and Safety Code which is sold on or after July 1, 1981. "Motor vehicle" does not include any trailer which is sold in conjunction with a vessel and which comes within the definition of "goods" under Section 1802.1.

(*l*) "Purchase order" means a sales order, car reservation, statement of transaction or any other such instrument used in the conditional sale of a motor vehicle pending execution of a conditional sale contract. The purchase order shall conform to the disclosure requirements of subdivision (a) of Section 2982 and Section 2984.1 and the provisions of subdivision (m) of Section 2982 shall be

applicable thereto.

(m) "Regulation Z" means any rule, regulation or interpretation promulgated by the Board of Governors of the Federal Reserve System ("Board") under the federal Truth in Lending Act, as amended (15 U.S.C. 1601, et seq.), and any interpretation or approval issued by an official or employee of the Federal Reserve System duly authorized by the board under the Truth in Lending Act, as amended, to issue such interpretations or approvals.

(n) "Simple-interest basis" means the determination of a finance charge, other than an administrative finance charge, by applying a constant rate to the unpaid balance as it changes from time to time either:

(1) Calculated on the basis of a 365-day year and actual days elapsed (although the seller may, but need not, adjust its calculations to account for leap years); reference in this chapter to the "365-day basis" shall mean this method of determining the finance charge, or

(2) For contracts entered into prior to January 1, 1988, calculated on the basis of a 360-day year consisting of 12 months of 30 days each and on the assumption that all payments will be received by the seller on their respective due dates; reference in this chapter to the "360-day basis" shall mean this method of determining the finance charge.

(o) "Precomputed basis" means the determination of a finance charge by multiplying the original unpaid balance of the contract by a rate and multiplying that product by the number of payment periods elapsing between the date of the contract and the date of the last scheduled payment.

(p) "Service contract" means a contract in writing to perform, over a fixed period of time or for a specified duration, services relating to the maintenance or repair, or both, of the motor vehicle described in the conditional sale contract.

SEC. 3. No reimbursement is required by this act pursuant to 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 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 1187

An act to amend Section 777 of the Welfare and Institutions Code, relating to juvenile court law.

[Approved by Governor September 28, 1985 Filed with Secretary of State September 29, 1985]

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

SECTION 1. Section 777 of the Welfare and Institutions Code is amended to read:

777. An order changing or modifying a previous order by removing a minor from the physical custody of a parent, guardian, relative, or friend and directing placement in a foster home, or commitment to a private institution or commitment to a county institution, or an order changing or modifying a previous order by directing commitment to the Youth Authority shall be made only after noticed hearing upon a supplemental petition.

(a) The supplemental petition shall be filed by the probation officer, where a minor has been declared a ward of the court or a probationer under Section 601, and by the prosecuting attorney at the request of the probation officer where a minor has been declared a ward or probationer under Section 602, in the original matter and shall contain a concise statement of facts sufficient to support the conclusion that the previous disposition has not been effective in the rehabilitation or protection of the minor.

(b) Notwithstanding the provisions of subdivision (a), if the petition alleges a violation of a condition of probation and is for the commitment of a minor to a county juvenile institution for a period of 30 days or less, or for a less restrictive disposition, it is not necessary to allege and prove that the previous disposition has not been effective in the rehabilitation or protection of the minor. However, before any period of commitment in excess of 15 days is ordered, the court shall determine and consider the effect that an extended commitment period would have on the minor's schooling, including possible loss of credits, and on any current employment of the minor. In order to make such a commitment the court must, however, find that the commitment is in the best interest of the minor. The provisions of this subdivision may not be utilized more than twice during the time the minor is a ward of the court.

(c) Upon the filing of a supplemental petition, the clerk of the juvenile court shall immediately set the same for hearing within 30 days, and the probation officer shall cause notice of it to be served upon the persons and in the manner prescribed by Sections 658 and 660.

(d) An order for the detention of the minor pending adjudication of the petition may be made only after a hearing is conducted pursuant to Article 15 (commencing with Section 625) of this chapter.

(e) The filing of a supplemental petition and the hearing thereon shall not be required for the commitment of a minor to a county institution for a period of 30 days or less pursuant to an original or a previous order imposing a specified time in custody and staying the enforcement of the order subject to subsequent violation of a condition or conditions of probation, provided that in order to make the commitment, the court finds at a hearing that the minor has

violated a condition of probation.

CHAPTER 1188

An act to add Section 987.81 to the Penal Code, relating to legal assistance.

[Approved by Governor September 28, 1985 Filed with Secretary of State September 29, 1985.]

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

SECTION 1. Section 987.81 is added to the Penal Code, to read:

987.81. (a) In any case in which a defendant is provided legal assistance, either through the public defender or private counsel appointed by the court, upon conclusion of the criminal proceedings in the trial court, or upon the withdrawal of the public defender or appointed private counsel, the court shall consider the available information concerning the defendant's ability to pay the costs of legal assistance and may, after notice, as provided in subdivision (b), hold a hearing to make a determination of the present ability of the defendant to pay all or a portion of the cost thereof. Notwithstanding the above, in any case where the court has ordered the probation officer to investigate and report to the court pursuant to subdivision (b) of Section 1203, the court may hold such a hearing. The court may, in its discretion, hold one such additional hearing within six months of the conclusion of the criminal proceedings.

(b) Concurrent with the furnishing of counsel or legal assistance by the court, the court shall order the defendant to appear before a county officer designated by the court to make an inquiry into the ability of the defendant to pay all or a portion of the legal assistance provided. Prior to the furnishing of counsel or legal assistance by the court, the court shall give notice to the defendant that the court shall, after a hearing, make a determination of the present ability of the defendant to pay all or a portion of the cost of counsel. The court shall also give notice that, if the court determines that the defendant has the present ability, the court shall order him or her to pay all or a part of the cost. The notice shall inform the defendant that the order shall have the same force and effect as a judgment in a civil action and shall be subject to enforcement against the property of the defendant in the same manner as any other money judgment.

(c) The provisions of this section shall apply only in a county in which the board of supervisors adopts a resolution which elects to proceed under this section.

CHAPTER 1189

An act to add Section 462 to, and to add and repeal Chapter 6 (commencing with Section 58551) of Part 1 of Division 21 of, the Food and Agricultural Code, relating to agricultural marketing, and making an appropriation therefor.

[Approved by Governor September 28, 1985 Filed with Secretary of State September 29, 1985]

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

SECTION 1. Section 462 is added to the Food and Agricultural Code, to read:

462. The director may enter into an agreement with one or more organizations representing growers, shippers, and manufacturers of agricultural commodities whereby research will be conducted by public or private agencies to determine methods, techniques, or criteria for agricultural commodities to qualify for entrance into foreign markets.

The agreement shall specify that the state will provide 50 percent of the funds necessary for the research and the other parties to the agreement will provide the remaining 50 percent.

State funds shall be available for expenditure for the purposes of this section upon appropriation therefor in the Budget Act or other statute.

SEC. 2. Chapter 6 (commencing with Section 58551) is added to Part 1 of Division 21 of the Food and Agricultural Code, to read:

CHAPTER 6. FOREIGN MARKETING

Article 1. General Provisions

58551. This chapter shall be known and may be cited as the Foreign Market Development Export Incentive Program for California Agriculture Act.

58552. (a) The Legislature finds and declares that it is the policy of this state to encourage and promote the sale of agricultural products of California in foreign markets and to assist farmers, processors, distributors, and exporters in meeting world market needs.

(b) The Legislature further finds and declares, as being consistent with the Thurman Agricultural Policy Act (Chapter 6 (commencing with Section 801) of Part 1 of Division 1), both of the following:

(1) The harvest from approximately one out of every four acres of California cropland is now sold in foreign markets, thus the state's agricultural economy is dependent upon international trade.

(2) It is in the public's best interest to assist California agriculture in market development for agricultural products, and to expand

world trade in these products to maximize growth in the state's economy.

58553. The definitions in this article apply to this chapter.

58554. "Agricultural commodities" means the products of California farms and ranches and items processed from these products, and includes forest products and fish and fish products produced in California.

58555. "Constraint" means a condition in a particular country or region which needs to be addressed in order to develop, expand, or maintain agricultural commodity exports.

58556. "Cooperator" means a private or nonprofit agricultural marketing organization or state marketing order board or commission organized pursuant to this code operating in California which is actively engaged in the marketing of agricultural commodities and has entered into a project agreement with the department to contribute cash, goods, or services to a foreign market development program.

58557. "Marketing" means the advertising, sale, and distribution of agricultural commodities, including private brands and trade names, in foreign markets.

58558. "Marketing plan" means the primary annual document prepared by cooperators and approved by the director which defines activities and budgets addressing constraints and the marketing of agricultural commodities.

58559. "Project agreement" means a contract between the department and a cooperator under which the cooperator agrees to conduct activities that both address constraints and encourage the development or maintenance of agricultural commodity export sales.

58560. "State funds" means the funds made available by the department under a project agreement.

58561. "Third party cooperator" means a foreign government or private organization which has entered into an agreement with a cooperator to join in the marketing of agricultural commodities.

58562. (a) "Cooperator contributions" means contributions of money, personnel, materials, facilities, services, or supplies, expressed in terms of United States dollar value, that are furnished by the cooperator and any third party cooperator to help carry out the terms of a project agreement. Funds, services, or personnel provided by any state or federal agency, except funds from a state marketing order board or commission organized pursuant to this code, cannot be counted as a contribution.

58563. The department shall adopt regulations, including criteria to establish what constitutes cooperator contributions, necessary to effectuate this chapter. Whenever applicable, the regulations shall be consistent with similar regulations adopted by the Foreign Agriculture Service of the United States Department of Agriculture.

Article 2. Project Agreements

58571. (a) Project agreements may be entered into between the department and cooperators in order to address constraints and encourage the marketing of agricultural commodities in foreign countries. A project agreement may be limited to activities in one country, or may include activities in several countries. Project agreements shall include, but are not limited to, all of the following:

(1) A description of the commodity, or commodities, for which a project agreement is being requested and a statement that California export availabilities are expected to be adequate during the life of the project.

(2) A description of the applicant organization or firm.

(3) A justification for participation in the foreign market development program.

(4) A statement of proposed activities, including specific information on the activities to be conducted, the countries in which they will be undertaken, who will conduct or supervise them, and the expected results.

(5) An estimate of the level of project funds required and an indication of the availability of industry resources to match project funds and personnel needed to carry out the proposed program.

(b) Cooperator activities shall be described and budgeted in a marketing plan which becomes part of the project agreement. The marketing plan shall be separately submitted to the director who may approve or disapprove it. The marketing plan shall be reviewed annually at which time it may be revised by the cooperator or the department, or by both.

(c) The marketing plan shall include all of the following:

(1) The proposed expenditure of state funds and cooperator contributions.

(2) Information on how much funding has been received from the Foreign Agriculture Service in the last five years and if those funds have been requested for the current year.

(3) An identification of the constraints to expanding or maintaining California exports to each market area addressed by the plan.

(4) A description of the proposed activities and the amount of funds, both state and cooperator, to be spent to overcome or mitigate the constraints for the commodity, or commodities, and the country, or countries, covered by the plan.

(5) A report, if available, from local attachés or the counselors regarding potential marketing activities in their countries.

(d) A project agreement may not go into effect pursuant to this chapter without the director's approval of both the marketing plan and the agreement itself.

(e) The cooperator shall administer and carry out the project agreement and shall permit the director or other state agencies to oversee and periodically inspect and investigate the administration

of the project agreement.

58572. (a) The director may only approve a project agreement that appears to effectively contribute to the creation, expansion, or maintenance of markets abroad. Primary emphasis shall be on commercial markets. The director shall give preference to project agreements that demonstrate potential for establishing long-term benefits. Special consideration may also be given for any of the following:

(1) Cooperators who are new to the market.

(2) New product promotion.

(3) Cooperators who are unable to obtain federal cooperator status.

(4) Cooperators whose project proposals involve foreign markets not currently authorized pursuant to regulations adopted by the Foreign Agricultural Service.

(b) Approvals and priorities shall be based on the following criteria:

(1) Potential for creating, maintaining, or increasing consumption and exports of California agricultural commodities to other countries.

(2) Long-range contribution to California agricultural exports.

(3) Ability of the cooperator to provide a competent staff and other resources to ensure adequate development, supervision, and execution of project activities.

(4) Willingness and ability of private organizations to back up promotional activities with aggressive selling and adequate supplies of commodities of the quality desired by foreign buyers.

(5) Competition in the market.

(6) Cultural, political, and economic obstacles which restrict imports of California agricultural commodities into the markets.

(7) An assessment of the project costs compared to the benefits of expanding California agricultural exports.

58573. Project agreements may promote either a single commodity or a group of related commodities. Activities shall be aimed at increasing both consumer and commercial uses for agricultural commodities. Activities carried out by cooperators fall under the following three categories:

(a) Technical assistance, which includes activities to address technical problems related to trade impediments and to the sale, movement, processing, marketing, or utilization of agricultural commodities.

(b) Market development activities, which include activities involving foreign traders, importers, wholesalers, retailers, and foreign government officials who import, distribute, and market agricultural commodities.

(c) Consumer promotion activities, which include activities to influence consumers by changing attitudes toward, or making them aware of the advantages of utilizing, California agricultural products.

58574. (a) State funds may be used to pay costs which are

essential to, and clearly identifiable with, the carrying out of the activities specified in the marketing plan approved by the director.

(b) The director shall adopt regulations similar to those developed by the Foreign Agriculture Service of the United States Department of Agriculture to proscribe the unauthorized use of state funds pursuant to this chapter.

(c) Not more than two hundred thousand dollars ($200,000) shall be annually appropriated for this program's state administrative costs, as specified in the annual Budget Bill.

(d) Not more than 15 percent of the funds annually appropriated for this program shall be used for any one project agreement in any one year unless the director approves a higher level upon concurrence of a majority vote of the advisory committee authorized pursuant to Section 58576.

(e) Cooperators shall provide an annual contribution which is equal to or greater than the amount of state funds utilized for each project agreement.

58575. Activities undertaken pursuant to this chapter shall be supplemental to, and not a substitute for, any market development activities undertaken by the federal government.

58576. An advisory committee shall be established to review and make recommendations to the director on which project proposals to fund. The advisory committee shall be made up of all of the following:

(a) The president of the State Board of Food and Agriculture or his or her designee.

(b) The Secretary of Business, Transportation and Housing or his or her designee.

(c) Two appointees of the director who have demonstrated experience and have had no fiduciary interest for the last two years in international marketing of agricultural products.

(d) Two appointees of the Governor who have demonstrated experience and has had no fiduciary interest for the last two years in either marketing of agricultural products or finance.

(e) One appointee of the Senate Rules Committee who has demonstrated experience and has had no fiduciary interest for the last two years in international marketing of agricultural products.

(f) One appointee of the Speaker of the Assembly who has demonstrated experience and has had no fiduciary interest for the last two years in international marketing of agricultural products.

(g) The Executive Director of the World Trade Commission or his or her designee.

Article 3. Funding

58581. It is the intent of the Legislature that the sum of five million dollars ($5,000,000) be appropriated from the General Fund, or from the California Unitary Fund if that fund is established by Assembly Bill No. 1300 of the 1985 Regular Session, annually to the

department to carry out this chapter.

Article 4. Reporting and Termination

58591. On or before December 31, 1988, the director shall report to the Legislature on the status of this chapter. The report shall include an assessment of the act's ability to create, maintain, or increase exports of California agricultural commodities.

58592. This chapter shall remain in effect only until January 1, 1990, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1990, deletes or extends that date.

SEC. 3. The sum of two million one hundred thousand dollars ($2,100,000) is hereby appropriated from the General Fund to the Controller for allocation to the Department of Food and Agriculture in accordance with the following schedule:

(a) For the development of a plan to expend funds allocated to the department pursuant to subdivision (b) of this section in order to carry out its functions prescribed in Chapter 6 (commencing with Section 58551) of Part 1 of Division 21 of the Food and Agricultural Code $100,000

(b) For the department's duties as prescribed in Chapter 6 (commencing with Section 58551) of Part 1 of Division 21 of the Food and Agricultural Code $2,000,000

With respect to the allocation of any funds under this subdivision, these funds may not be allocated any sooner than 30 days after written notification of the intent to allocate is provided to the Chairperson of the Joint Legislative Budget Committee by the Controller, or not sooner than such lesser time after written notification as the chairperson, or his or her designee, may in each instance determine.

Provided further, that no funds may be allocated pursuant to this subdivision unless and until the plan prescribed in subdivision (a) has been completed and submitted to the Legislature.

CHAPTER 1190

An act to amend Section 17240 of the Revenue and Taxation Code, to take effect immediately, tax levy, relating to taxation.

[Approved by Governor September 28, 1985 Filed with Secretary of State September 29, 1985.]

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

SECTION 1. Section 17240 of the Revenue and Taxation Code, as amended by Chapter 159 of the Statutes of 1985, is amended to read:

17240. (a) No deduction shall be allowed for any of the following:

(1) That portion of contributions (including carryovers from prior years) which exceeds the maximum amount specified in Section 17241.

(2) Contributions allowed by Section 170(g) of the Internal Revenue Code (relating to maintenance of students).

(3) Contributions, allowed by Section 170(i) of the Internal Revenue Code, made prior to January 1, 1984.

(4) Designations provided by Section 18500 (relating to the State Children's Trust Fund).

(5) Designations provided by Section 18510 (relating to the California Seniors' Fund).

(6) Designations provided by Section 18520 (relating to the Rare and Endangered Species Program).

(7) Designations provided by Section 18530 (relating to the United States Olympic Committee Fund).

(b) A deduction shall be allowed for all of the following:

(1) Transportation expenses described in Section 17242.

(2) Political contributions described in Section 17245.

(c) In determining the contribution deduction the following shall apply:

(1) Artistic property defined in Section 17243 shall be included and treated as a capital asset for taxable years beginning before January 1, 1987, and shall be subject to the reduction under Section 170(e)(1) of the Internal Revenue Code.

(2) (A) In the case of artistic property, as defined in this paragraph, the amount taken into account under Section 170(a) of the Internal Revenue Code shall be reduced by the amount of gain which would have been included in taxable income, if the property had been sold by the taxpayer at its fair market value (determined at the time of contribution).

(B) For the purposes of this paragraph, artistic property created by the personal efforts of the taxpayer shall be treated as a capital asset.

(C) For the purposes of this paragraph, artistic property is property created by the personal efforts of the taxpayer if all of the following conditions are met:

(i) At least 20 percent of the taxpayer's adjusted gross income for the taxable year or at least 50 percent of the taxpayer's adjusted gross income for any of the three prior taxable years is derived from the sale of artistic property created by the personal efforts of the taxpayer.

(ii) The fair market value of the artistic property is established by independent appraisal.

(iii) The recipient of the artistic property is an organization exempt from tax pursuant to Section 23701d, or the State of California or a political subdivision or agency thereof, including the Regents of the University of California and any city organized under a freeholder's charter.

(D) For the purposes of this paragraph, "artistic property" includes musical, literary, and artistic creations, but does not include letters, memoranda, or similar property which was written, prepared, or produced by, or for, the taxpayer while holding an office under the government of the United States or of any state or political subdivision thereof, if the writing, preparation, or production was related to, or arose out of, the performance of the duties of the office.

(E) This paragraph shall apply in the computation of taxes for taxable years beginning after December 31, 1986.

(3) The definitions and percentage limitations prescribed in Section 18162.5 shall be used in making the reduction required to be made under Section 170(e)(1) of the Internal Revenue Code for appreciated property.

(d) In determining the carryover of excess contributions as stated in Section 170(d)(1)(A) of the Internal Revenue Code, the carryover shall be determined as the amount by which the taxpayer's charitable contributions for the contribution year (as described in Section 170(b)(1)(A) of the Internal Revenue Code) exceed the amount allowed by Section 17241 (computed without regard to the taxpayer's charitable contributions).

SEC. 2. Section 17240 of the Revenue and Taxation Code, as amended by Chapter 159 of the Statutes of 1985, is amended to read:

17240. (a) No deduction shall be allowed for any of the following:

(1) That portion of contributions (including carryovers from prior years) which exceeds the maximum amount specified in Section 17241.

(2) Contributions allowed by Section 170(g) of the Internal Revenue Code (relating to maintenance of students).

(3) Contributions, allowed by Section 170(i) of the Internal Revenue Code, made prior to January 1, 1984.

(4) Designations provided by Section 18500 (relating to the State Children's Trust Fund).

(5) Designations provided by Section 18510 (relating to the California Seniors' Fund).

(6) Designations provided by Section 18520 (relating to the Rare and Endangered Species Program).

(7) Designations provided by Section 18530 (relating to the

United States Olympic Committee Fund).

(b) A deduction shall be allowed for political contributions described in Section 17245.

(c) In determining the contribution deduction the following shall apply:

(1) Artistic property defined in Section 17243 shall be included and treated as a capital asset for taxable years beginning before January 1, 1987, and shall be subject to the reduction under Section 170(e)(1) of the Internal Revenue Code.

(2) (A) In the case of artistic property, as defined in this paragraph, the amount taken into account under Section 170(a) of the Internal Revenue Code shall be reduced by the amount of gain which would have been included in taxable income, if the property had been sold by the taxpayer at its fair market value (determined at the time of contribution).

(B) For the purposes of this paragraph, artistic property created by the personal efforts of the taxpayer shall be treated as a capital asset.

(C) For the purposes of this paragraph, artistic property is property created by the personal efforts of the taxpayer if all of the following conditions are met:

(i) At least 20 percent of the taxpayer's adjusted gross income for the taxable year or at least 50 percent of the taxpayer's adjusted gross income for any of the three prior taxable years is derived from the sale of artistic property created by the personal efforts of the taxpayer.

(ii) The fair market value of the artistic property is established by independent appraisal.

(iii) The recipient of the artistic property is an organization exempt from tax pursuant to Section 23701d, or the State of California or a political subdivision or agency thereof, including the Regents of the University of California and any city organized under a freeholder's charter.

(D) For the purposes of this paragraph, "artistic property" includes musical, literary, and artistic creations, but does not include letters, memoranda, or similar property which was written, prepared, or produced by, or for, the taxpayer while holding an office under the government of the United States or of any state or political subdivision thereof, if the writing, preparation, or production was related to, or arose out of, the performance of the duties of the office.

(E) This paragraph shall apply in the computation of taxes for taxable years beginning after December 31, 1986.

(3) The definitions and percentage limitations prescribed in Section 18162.5 shall be used in making the reduction required to be made under Section 170(e)(1) of the Internal Revenue Code for appreciated property.

(d) In determining the carryover of excess contributions as stated in Section 170(b)(1)(B) or 170(d)(1)(A) of the Internal Revenue Code, the carryover shall be determined as the amount by which the

taxpayer's charitable contributions for the contribution year (as described in Section 170(b)(1)(A) or (B) of the Internal Revenue Code) exceed the amount allowed by Section 17241 (computed without regard to the taxpayer's charitable contributions).

(e) For purposes of Section 170(c)(2) of the Internal Revenue Code, the term "educational purposes" includes the providing of care of children away from their home if both of the following are satisfied:

(1) Substantially all the care provided by the organization is for purposes of enabling individuals to be gainfully employed.

(2) The services provided by the organization are available to the general public.

SEC. 3. Section 17240 of the Revenue and Taxation Code, as amended by Chapter 159 of the Statutes of 1985, is amended to read:

17240. (a) No deduction shall be allowed for any of the following:

(1) That portion of contributions (including carryovers from prior years) which exceeds the maximum amount specified in Section 17241.

(2) Contributions allowed by Section 170(g) of the Internal Revenue Code (relating to maintenance of students).

(3) Contributions, allowed by Section 170(i) of the Internal Revenue Code, made prior to January 1, 1984, or after December 31, 1986.

(4) Designations provided by Section 18500 (relating to the State Children's Trust Fund).

(5) Designations provided by Section 18510 (relating to the California Seniors' Fund).

(6) Designations provided by Section 18520 (relating to the Rare and Endangered Species Program).

(7) Designations provided by Section 18530 (relating to the United States Olympic Committee Fund).

(b) A deduction shall be allowed for all of the following:

(1) Transportation expenses described in Section 17242.

(2) Political contributions described in Section 17245.

(c) In determining the contribution deduction the following shall apply:

(1) Artistic property defined in Section 17243 shall be included and treated as a capital asset for taxable years beginning before January 1, 1987, and shall be subject to the reduction under Section 170(e)(1) of the Internal Revenue Code.

(2) (A) In the case of artistic property, as defined in this paragraph, the amount taken into account under Section 170(a) of the Internal Revenue Code shall be reduced by the amount of gain which would have been included in taxable income, if the property had been sold by the taxpayer at its fair market value (determined at the time of contribution).

(B) For the purposes of this paragraph, artistic property created by the personal efforts of the taxpayer shall be treated as a capital asset.

(C) For the purposes of this paragraph, artistic property is property created by the personal efforts of the taxpayer if all of the following conditions are met:

(i) At least 20 percent of the taxpayer's adjusted gross income for the taxable year or at least 50 percent of the taxpayer's adjusted gross income for any of the three prior taxable years is derived from the sale of artistic property created by the personal efforts of the taxpayer.

(ii) The fair market value of the artistic property is established by independent appraisal.

(iii) The recipient of the artistic property is an organization exempt from tax pursuant to Section 23701d, or the State of California or a political subdivision or agency thereof, including the Regents of the University of California and any city organized under a freeholder's charter.

(D) For the purposes of this paragraph, "artistic property" includes musical, literary, and artistic creations, but does not include letters, memoranda, or similar property which was written, prepared, or produced by, or for, the taxpayer while holding an office under the government of the United States or of any state or political subdivision thereof, if the writing, preparation, or production was related to, or arose out of, the performance of the duties of the office.

(E) This paragraph shall apply in the computation of taxes for taxable years beginning after December 31, 1986.

(3) The definitions and percentage limitations prescribed in Section 18162.5 shall be used in making the reduction required to be made under Section 170(e)(1) of the Internal Revenue Code for appreciated property.

(d) In determining the carryover of excess contributions as stated in Section 170(d)(1)(A) of the Internal Revenue Code, the carryover shall be determined as the amount by which the taxpayer's charitable contributions for the contribution year (as described in Section 170(b)(1)(A) of the Internal Revenue Code) exceed the amount allowed by Section 17241 (computed without regard to the taxpayer's charitable contributions).

SEC. 4. Section 17240 of the Revenue and Taxation Code, as amended by Chapter 159 of the Statutes of 1985, is amended to read:

17240. (a) No deduction shall be allowed for any of the following:

(1) That portion of contributions (including carryovers from prior years) which exceeds the maximum amount specified in Section 17241.

(2) Contributions allowed by Section 170(g) of the Internal Revenue Code (relating to maintenance of students).

(3) Contributions, allowed by Section 170(i) of the Internal Revenue Code, made prior to January 1, 1984, or after December 31, 1986.

(4) Designations provided by Section 18500 (relating to the State Children's Trust Fund).

(5) Designations provided by Section 18510 (relating to the

California Seniors' Fund).

(6) Designations provided by Section 18520 (relating to the Rare and Endangered Species Program).

(7) Designations provided by Section 18530 (relating to the United States Olympic Committee Fund).

(b) A deduction shall be allowed for political contributions described in Section 17245.

(c) In determining the contribution deduction the following shall apply:

(1) Artistic property defined in Section 17243 shall be included and treated as a capital asset for taxable years beginning before January 1, 1987, and shall be subject to the reduction under Section 170(e)(1) of the Internal Revenue Code.

(2) (A) In the case of artistic property, as defined in this paragraph, the amount taken into account under Section 170(a) of the Internal Revenue Code shall be reduced by the amount of gain which would have been included in taxable income, if the property had been sold by the taxpayer at its fair market value (determined at the time of contribution).

(B) For the purposes of this paragraph, artistic property created by the personal efforts of the taxpayer shall be treated as a capital asset.

(C) For the purposes of this paragraph, artistic property is property created by the personal efforts of the taxpayer if all of the following conditions are met:

(i) At least 20 percent of the taxpayer's adjusted gross income for the taxable year or at least 50 percent of the taxpayer's adjusted gross income for any of the three prior taxable years is derived from the sale of artistic property created by the personal efforts of the taxpayer.

(ii) The fair market value of the artistic property is established by independent appraisal.

(iii) The recipient of the artistic property is an organization exempt from tax pursuant to Section 23701d, or the State of California or a political subdivision or agency thereof, including the Regents of the University of California and any city organized under a freeholder's charter.

(D) For the purposes of this paragraph, "artistic property" includes musical, literary, and artistic creations, but does not include letters, memoranda, or similar property which was written, prepared, or produced by, or for, the taxpayer while holding an office under the government of the United States or of any state or political subdivision thereof, if the writing, preparation, or production was related to, or arose out of, the performance of the duties of the office.

(E) This paragraph shall apply in the computation of taxes for taxable years beginning after December 31, 1986.

(3) The definitions and percentage limitations prescribed in Section 18162.5 shall be used in making the reduction required to be made under Section 170(e)(1) of the Internal Revenue Code for

appreciated property.

(d) In determining the carryover of excess contributions as stated in Section 170(b)(1)(B) or 170(d)(1)(A) of the Internal Revenue Code, the carryover shall be determined as the amount by which the taxpayer's charitable contributions for the contribution year (as described in Section 170(b)(1)(A) or (B) of the Internal Revenue Code) exceed the amount allowed by Section 17241 (computed without regard to the taxpayer's charitable contributions).

(e) For purposes of Section 170(c)(2) of the Internal Revenue Code, the term "educational purposes" includes the providing of care of children away from their home if both of the following are satisfied:

(1) Substantially all the care provided by the organization is for purposes of enabling individuals to be gainfully employed.

(2) The services provided by the organization are available to the general public.

SEC. 5. (a) Section 2 of this bill incorporates amendments to Section 17240 of the Revenue and Taxation Code proposed by both this bill and AB 66. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1986, (2) each bill amends Section 17240 of the Revenue and Taxation Code, and (3) SB 172 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 66, in which case Section 17240 of the Revenue and Taxation Code, as amended by AB 66, shall remain operative only until the operative date of this bill, at which time Section 2 of this bill shall become operative, and Sections 1, 3, and 4 of this bill shall not become operative.

(b) Section 3 of this bill incorporates amendments to Section 17240 of the Revenue and Taxation Code proposed by both this bill and SB 172. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1986, (2) each bill amends Section 17240 of the Revenue and Taxation Code, (3) AB 66 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after SB 172 in which case Section 17240 of the Revenue and Taxation Code, as amended by SB 172, shall remain operative only until the operative date of this bill, at which time Section 3 of this bill shall become operative, and Sections 1, 2, and 4 of this bill shall not become operative.

(c) Section 4 of this bill incorporates amendments to Section 17240 of the Revenue and Taxation Code proposed by this bill, AB 66, and SB 172. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 1986, (2) all three bills amend Section 17240 of the Revenue and Taxation Code, (3) this bill is enacted after AB 66 and SB 172, in which case Section 17240 of the Revenue and Taxation Code, as amended by AB 66 and SB 172, shall remain operative only until the operative date of this bill, at which time Section 4 of this bill shall become operative, and Sections 1, 2, and 3 of this bill shall not become operative.

SEC. 6. The Franchise Tax Board shall, not later than February

1, 1986, submit a report to the Legislature on the estimated fiscal effect of the amendment to paragraph (1) of subdivision (c) of the Revenue and Taxation Code made by this act and on the projected fiscal effect of the amendment to paragraph (2) of subdivision (c) of Section 17240 made by this act in the 1986–87 and 1987–88 fiscal years.

SEC. 7. This act provides for a tax levy within the meaning of Article IV and shall go into immediate effect.

CHAPTER 1191

An act to add Section 25122.55 to the Health and Safety Code, relating to hazardous waste.

[Approved by Governor September 28, 1985 Filed with Secretary of State September 29, 1985]

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

SECTION 1. Section 25122.55 is added to the Health and Safety Code, to read:

25122.55. (a) Used or spent etchants, stripping solutions, and plating solutions are spent, contaminated, or used material for purposes of this chapter.

(b) Used or spent etchants, stripping solutions, and plating solutions which meet a characteristic established by or are listed by the Environmental Protection Agency or the department as a hazardous waste and are transported from the site where they are produced, and transferred to an unrelated or unaffiliated person for any purpose, are subject to the requirements of this chapter which apply to hazardous waste unless the department waives any specific provision of this chapter pursuant to Section 25143. Nothing in this section exempts any used or spent etchant, stripping solution, or plating solution from any other requirement of this chapter.

CHAPTER 1192

An act to add Article 7.3 (commencing with Section 51770) to Chapter 5 of Part 28 of the Education Code, relating to schools.

[Approved by Governor September 28, 1985 Filed with Secretary of State September 29, 1985]

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

SECTION 1. Article 7.3 (commencing with Section 51770) is added to Chapter 5 of Part 28 of the Education Code, to read:

Article 7.3. Energy Education

51770. The Legislature hereby finds and declares that despite various energy conservation measures, energy costs have continued to increase and will likely increase in the future. The Legislature also finds and declares that a model comprehensive energy education program to be made available to pupils enrolled in the public schools is required in order to acquaint pupils with the limited availability of energy resources, the need for effective energy conservation measures, and other issues addressing our future energy needs.

51771. (a) The Superintendent of Public Instruction shall provide for the development of a model energy education program appropriate for use by school districts maintaining kindergarten and grades 1 to 12, inclusive. In developing the model program, the superintendent may utilize or incorporate existing instructional materials in the area of energy and other available resources, so long as the superintendent determines that they are reasonably balanced and objective, or are capable of being used in conjunction with other materials to establish a reasonably balanced and objective perspective. The model program, including the review of the utilization or incorporation of existing instructional materials in the area of energy and other available resources, shall be developed in consultation with the California Energy Commission, and shall be periodically updated to incorporate additional technological changes.

The model program shall include an accurate, objective assessment of the nation's current and projected energy supplies and a review of the nation's progress in the development of alternative energy resources, with an emphasis on renewable energy sources such as solar and wind power.

(b) The model program shall be designed to provide instruction to pupils regarding all of the following:

(1) The finite nature of our nation's current basic energy resources.

(2) The effects of energy extraction from nonrenewable resources on the environment.

(3) An examination of the balance between consumer demands for energy and the need for energy conservation, as well as the effect of present energy usage on the energy needs of future generations.

(4) An examination of policy issues regarding the use of alternative energy resources, including the weatherization of homes and businesses, individual and business energy conservation, the availability of incentives to promote the development of renewable energy resources, and the cost-effectiveness of various types of energy production such as fossil fuels, nuclear energy, solar power, wind power, and geothermal energy.

(5) An examination of the viability of energy conservation as an energy resource.

51772. The Superintendent of Public Instruction shall make the

model program developed under this article available to each school district. School districts shall have the option to include the model program as part of their required or authorized courses of instruction, but it is the intent of the Legislature that the Superintendent of Public Instruction shall take any steps necessary to encourage school districts to provide some form of energy education instruction.

CHAPTER 1193

An act to amend Sections 25163 and 25345.5 of, and to add Section 25366.5 to, the Health and Safety Code, relating to hazardous waste.

[Approved by Governor September 28, 1985 Filed with Secretary of State September 29, 1985]

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

SECTION 1. 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 transportation of hazardous wastes, unless the 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 transporter who does not hold a valid registration issued by the department. A person who holds a valid registration issued by the department pursuant to this section is a registered hazardous waste hauler, for purposes of this chapter. Any registration issued by the department to a transporter of hazardous waste is not transferable from the person to whom it was issued to any other person.

Commencing January 1, 1986, the hazardous waste information required and collected for registration pursuant to this subdivision shall be recorded and maintained in the management information system operated by the Department of the California Highway Patrol.

(b) Persons transporting 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 the health officer's authorized representative pursuant to Chapter 6 (commencing with Section 25000) are exempt from the requirements of subdivision (a).

(c) Persons transporting 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, are exempt from the requirements of subdivisions (a) and (e) and from the requirements

of Section 25160 concerning possession of the manifest while transporting hazardous waste, upon meeting all of the following conditions:

(1) The hazardous wastes are transported in closed containers and packed in a manner that prevents the containers from tipping, spilling, or breaking during the transporting.

(2) Different hazardous waste materials are not mixed within a container during the transporting.

(3) If the hazardous waste is extremely hazardous waste, the extremely hazardous waste was not generated in the course of any business, and is not more than 2.2 pounds.

(4) The person transporting the hazardous waste is the producer of that hazardous waste, and the person produces no more than 100 kilograms of hazardous waste in any month.

(d) Any person registered as a hazardous waste hauler pursuant to subdivision (a) is not subject to the registration requirements of Chapter 6 (commencing with Section 25000), but shall comply with the terms, conditions, orders, and directions as the health officer or the health officer's 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 or 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 United States Department of Transportation regulations, which has not been inspected by the California Highway Patrol.

SEC. 2. Section 25345.5 of the Health and Safety Code is amended to read:

25345.5. (a) The recordkeeping requirements of Section 25342 and the tax provided for in Section 25345 do not apply to hazardous wastes collected by any public agency or any person operating a voluntary hazardous waste collection program under an agreement with a public agency, if the waste results from a voluntary hazardous waste collection program which complies with all requirements of Chapter 6.5 (commencing with Section 25100) and regulations adopted pursuant thereto. For the purposes of this subdivision, "voluntary hazardous waste collection program" means a program in which small quantities of hazardous wastes are received from noncommercial sources, stored, and ultimately transferred to a licensed hazardous waste disposal site.

(b) The tax provided for in Section 25345 shall not apply to hazardous wastes generated or disposed of by local vector control

agencies which have entered into a cooperative agreement pursuant to Section 2426 or by county agricultural commissioners if the hazardous wastes result from their control activities and if they comply with the requirements of Chapter 6.5 (commencing with Section 25100) and regulations adopted pursuant thereto.

(c) The recordkeeping requirements of Section 25342 and the tax provided for in Section 25345 do not apply to hazardous waste disposed of, or submitted for disposal, if the hazardous waste meets all of the following requirements:

(1) The hazardous waste was located on the property of a landowner who did not produce, generate, or deposit the hazardous waste on the property.

(2) The hazardous waste was removed from the property and disposed of, before September 25, 1981, at a facility licensed by the department, the landowner paid for the costs of that removal and disposal, and the removal and disposal was carried out pursuant to permits issued by, or under the direction of, the department or a local agency.

(3) The landowner removed and disposed of the hazardous waste for the purpose of developing the property with a housing development project, of which at least 15 percent of the total units are affordable to low- and moderate-income families, without the use of direct subsidies by the state or federal government.

SEC. 3. Section 25366.5 is added to the Health and Safety Code, to read:

25366.5. (a) Any public agency operating a voluntary hazardous waste collection program, as defined in Section 25345.5, or any person operating such a program under an agreement with a public agency, shall not be held liable in any cost recovery action brought pursuant to Section 25360 for any waste which has been properly handled and transported to an authorized hazardous waste treatment or disposal facility at a location other than that of the collection program.

(b) Except as provided in subdivision (a), this section does not affect or modify the obligations or liabilities of any person imposed pursuant to any state or federal law.

SEC. 4. No reimbursement is required by this act pursuant to 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 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 amend Section 5328 of, and to add Section 5606.6 to, the Welfare and Institutions Code, relating to mental health.

[Approved by Governor September 28, 1985. Filed with Secretary of State September 29, 1985]

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. 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.

(r) To persons serving on an interagency case management council established in compliance with Section 5606.6 to the extent necessary to perform its duties. This council shall attempt to obtain

the consent of the client. If this consent is not given by the client, the council shall justify in the client's chart why these records are necessary for the work of the council.

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 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.

(r) To persons serving on an interagency case management council established in compliance with Section 5606.6 to the extent necessary to perform its duties. This council shall attempt to obtain the consent of the client. If this consent is not given by the client, the council shall justify in the client's chart why these records are necessary for the work of the council.

(s) When the patient, in the opinion of his or her psychotherapist,

presents a serious danger of violence to a reasonably foreseeable victim or victims, then any of the information or records specified in this section may be released to that person or persons and to law enforcement agencies as the psychotherapist determines is needed for the protection of that person or persons. For purposes of this subdivision, "psychotherapist" means anyone so defined within Section 1010 of the Evidence Code.

This provision shall not be construed to allow any civil or criminal liability against a psychotherapist or any law enforcement person or agency.

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. 3. 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.

(r) To the agency established in this state to fulfill the requirements and assurances of Section 142 of the federal Developmental Disabilities Act of 1984 for a system to protect and advocate the rights of persons with developmental disabilities, as defined in Section 102(7) of the federal act. The agency shall have access to the records of a person with developmental disabilities who resides in a facility for persons with developmental disabilities when both of the following conditions apply:

(1) The agency has received a complaint from, or on behalf of, the person and the person consents to the disclosure to the extent of his or her capabilities.

(2) The person does not have a parent, guardian, or conservator, or the state or the designee of the state is the person's guardian or conservator.

(s) To persons serving on an interagency case management council established in compliance with Section 5606.6 to the extent necessary to perform its duties. This council shall attempt to obtain the consent of the client. If this consent is not given by the client, the council shall justify in the client's chart why these records are necessary for the work of the council.

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. 4. 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.

(r) To the agency established in this state to fulfill the requirements and assurances of Section 142 of the federal Developmental Disabilities Act of 1984 for a system to protect and advocate the rights of persons with developmental disabilities, as defined in Section 102(7) of the federal act. The agency shall have access to the records of a person with developmental disabilities who resides in a facility for persons with developmental disabilities when both of the following conditions apply:

(1) The agency has received a complaint from, or on behalf of, the person and the person consents to the disclosure to the extent of his or her capabilities.

(2) The person does not have a parent, guardian, or conservator, or the state or the designee of the state is the person's guardian or conservator.

(s) When the patient, in the opinion of his or her psychotherapist, presents a serious danger of violence to a reasonably foreseeable victim or victims, then any of the information or records specified in this section may be released to that person or persons and to law enforcement agencies as the psychotherapist determines is needed for the protection of that person or persons. For purposes of this subdivision, "psychotherapist" means anyone so defined within Section 1010 of the Evidence Code.

This provision shall not be construed to allow any civil or criminal liability against a psychotherapist or any law enforcement person or agency.

(t) To persons serving on an interagency case management council established in compliance with Section 5606.6 to the extent necessary to perform its duties. This council shall attempt to obtain the consent of the client. If this consent is not given by the client, the council shall justify in the client's chart why these records are necessary for the work of the council.

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. 5. Section 5606.6 is added to the Welfare and Institutions Code, to read:

5606.6. The Board of Supervisors of Ventura County may establish an interagency council to formulate case management plans for that population limited to users of Short-Doyle services

whose problem behavior has resulted in the involvement of two or more of the member agencies represented on the council. The council shall be composed of the Mental Health Services Program Supervisor for Continuing Care, the Mental Health Services Regional Manager, the Assistant Public Administrator-Public Guardian, the Public Social Services Adult Services Program Manager, a Sheriff's Department Commander, the Mental Health Services Patient Advocate, and the Corrections Services Agency Division Manager for Field Services.

If the Board of Supervisors of Ventura County establishes a council pursuant to this section, the board shall, by January 1, 1987, present a report to the Legislature, including, but not limited to, a statement of goals of the interagency council, completed activities of the council, proposed activities of the council, examples of case management plans developed by the council, and the reasons given by mental health clients, if any, who refused to give consent for disclosure of confidential information to the interagency council.

SEC. 6. (a) Section 2 of this bill incorporates amendments to Section 5328 of the Welfare and Institutions Code proposed by both this bill and SB 1034. It shall only become operative if (1) both bills are enacted and become effective January 1, 1986, (2) each bill amends Section 5328 of the Welfare and Institutions Code, and (3) SB 1088 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after SB 1034, in which case Sections 3 and 4 of this bill shall not become operative.

(b) Section 3 of this bill incorporates amendments to Section 5328 of the Welfare and Institutions Code proposed by both this bill and SB 1088. It shall only become operative if (1) both bills are enacted and become effective January 1, 1986, (2) each bill amends Section 5328 of the Welfare and Institutions Code, (3) SB 1034 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after SB 1088 in which case Sections 2 and 4 of this bill shall not become operative.

(c) Section 4 of this bill incorporates amendments to Section 5328 of the Welfarre and Institutions Code proposed by this bill, SB 1034, and SB 1088. It shall only become operative if (1) all three bills are enacted and become effective January 1, 1986, (2) all three bills amend Section 5328 of the Welfare and Institutions Code, (3) this bill is enacted after SB 1034 and SB 1088, in which case Sections 2 and 3 of this bill shall not become operative.

CHAPTER 1195

An act to amend Sections 19175, 19574.1, 19582, and 19584 of, to add Section 19574.2 to, and to repeal and add Section 19579 of, the Government Code, relating to disciplinary hearings.

[Approved by Governor September 28, 1985. Filed with Secretary of State September 29, 1985.]

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

SECTION 1. Section 19175 of the Government Code is amended to read:

19175. The board at the written request of a rejected probationer, filed within 15 calendar days of the effective date of rejection, may investigate with or without a hearing the reasons for rejection. After investigation, the board may do any of the following:

(a) Affirm the action of the appointing power.

(b) Modify the action of the appointing power.

(c) Restore the name of the rejected probationer to the employment list for certification to any position within the class; provided, that his or her name shall not be certified to the agency by which he or she was rejected, except with the concurrence of the appointing power thereof.

(d) Restore him or her to the position from which he or she was rejected, but this shall be done only if the board determines, after hearing, that there is no substantial evidence to support the reason or reasons for rejection, or that the rejection was made in fraud or bad faith. At any such hearing the rejected probationer shall have the burden of proof; subject to rebuttal by him or her, it shall be presumed that the rejection was free from fraud and bad faith and that the statement of reasons therefor in the notice of rejection is true.

SEC. 2. Section 19574.1 of the Government Code is amended to read:

19574.1. (a) An employee who has been served with notice of adverse action, or a representative designated by the employee, shall have the right to inspect any documents in the possession of, or under the control of, the appointing power which are relevant to the adverse action taken or which would constitute "relevant evidence" as defined in Section 210 of the Evidence Code. The employee, or the designated representative, shall also have the right to interview other employees having knowledge of the acts or omissions upon which the adverse action was based. Interviews of other employees and inspection of documents shall be at times and places reasonable for the employee and for the appointing power.

(b) The appointing power shall make all reasonable efforts necessary to assure the cooperation of any other employees interviewed pursuant to this section.

SEC. 3. Section 19574.2 is added to the Government Code, to read:

19574.2. (a) Any party claiming that his or her request for discovery pursuant to Section 19574.1 has not been complied with may serve and file a petition to compel discovery with the Hearing Office of the State Personnel Board, naming as respondent the party

refusing or failing to comply with Section 19574.1. The petition shall state facts showing that the respondent party failed or refused to comply with Section 19574.1, a description of the matters sought to be discovered, the reason or reasons why the matter is discoverable under Section 19574.1, and the ground or grounds of respondent's refusal so far as known to petitioner.

(b) The petition shall be served upon respondent party and filed within 14 days after the respondent party first evidenced his or her failure or refusal to comply with Section 19574.1 or within 30 days after the request was made and the party has failed to reply to the request, whichever period is longer. However, no petition may be filed within 15 days of the date set for commencement of the administrative hearing, except upon a petition and a determination by the administrative law judge of good cause. In determining good cause, the administrative law judge shall consider the necessity and reasons for the discovery, the diligence or lack of diligence of the moving party, whether the granting of the petition will delay the commencement of the administrative hearing on the date set, and the possible prejudice of the action to any party. The respondent shall have a right to file a written answer to the petition. Any answer shall be filed with the Hearing Office of the State Personnel Board and the petitioner within 15 days of service of the petition.

Unless otherwise stipulated by the parties and as provided by this section, the administrative law judge shall review the petition and any response filed by the respondent and issue a decision granting or denying the petition within 20 days after the filing of the petition. Nothing in this section shall preclude the administrative law judge from determining that an evidentiary hearing shall be conducted prior to the issuance of a decision on the petition. In the event that a hearing is ordered, the decision of the administrative law judge shall be issued within 20 days of the closing of the hearing.

A party aggrieved by the decision of the administrative law judge may, within 30 days of service of the decision, file a petition to compel discovery in the superior court for the county in which the administrative hearing will be held. The petition shall be served on the respondent party.

(c) If from a reading of the petition the court is satisfied that the petition sets forth good cause for relief, the court shall issue an order to show cause directed to the respondent party; otherwise the court shall enter an order denying the petition. The order to show cause shall be served upon the respondent and his or her attorney of record in the administrative proceeding by personal delivery or certified mail and shall be returnable no earlier than 10 days from its issuance nor later than 30 days after the filing of the petition. The respondent party shall have the right to serve and file a written answer or other response to the petition and order to show cause.

(d) The court may, in its discretion, order the administrative proceeding stayed during the pendency of the proceeding, and, if necessary, for a reasonable time thereafter to afford the parties time

to comply with the court order.

(e) Where the matter sought to be discovered is under the custody or control of the respondent party and the respondent party asserts that the matter is not a discoverable matter under Section 19574.1, or is privileged against disclosure under Section 19574.1, the court may order lodged with it matters which are provided in subdivision (b) of Section 915 of the Evidence Code and shall examine the matters in accordance with the provisions thereof.

(f) The court shall decide the case on the matters examined by the court in camera, the papers filed by the parties, and such oral argument and additional evidence as the court may allow.

(g) Unless otherwise stipulated by the parties, the court shall no later than 45 days after the filing of the petition file its order denying or granting the petition; provided, however, that the court may on its own motion for good cause extend the time an additional 45 days. The order of the court shall be in writing setting forth the matters or parts the petitioner is entitled to discover under Section 19574.1. A copy of the order shall forthwith be served by mail by the clerk upon the parties. Where the order grants the petition in whole or in part, the order shall not become effective until 10 days after the date the order is served by the clerk. Where the order denies relief to the petitioning party, the order shall be effective on the date it is served by the clerk.

(h) The order of the superior court shall be final and, except for this subdivision, shall not be subject to review by appeal. A party aggrieved by the order, or any part thereof, may within 30 days after the service of the superior court's order serve and file in the district court of appeal for the district in which the superior court is located, a petition for a writ of mandamus to compel the superior court to set aside, or otherwise modify, its order. Where a review is sought from an order granting discovery, the order of the trial court and the administrative proceeding shall be stayed upon the filing of the petition for writ of mandamus; provided, however, that the court of appeal may dissolve or modify the stay thereafter, if it is in the public interest to do so. Where the review is sought from a denial of discovery, neither the trial court's order nor the administrative proceeding shall be stayed by the court of appeal except upon a clear showing of probable error.

(i) Where the superior court finds that a party or his or her attorney, without substantial justification, failed or refused to comply with Section 19574.1, or, without substantial justification, filed a petition to compel discovery pursuant to this section, or, without substantial justification, failed to comply with any order of court made pursuant to this section, the court may award court costs and reasonable attorney fees to the opposing party. Nothing in this subdivision shall limit the power of the superior court to compel obedience to its orders by contempt proceedings.

SEC. 4. Section 19579 of the Government Code is repealed.

SEC. 4.5. Section 19579 is added to the Government Code, to

read:

19579. Failure of either party (the employee, the employer, or their representatives) to proceed at the hearing shall be deemed a withdrawal of the action or appeal, unless the hearing is continued by mutual agreement of the parties, or upon showing of good cause.

SEC. 5. Section 19582 of the Government Code is amended to read:

19582. (a) Hearings may be held by the board, or by any authorized representative, but the board shall render the decision which in its judgment is just and proper.

During a hearing, after the appointing authority has completed the opening statement or the presentation of evidence, the employee without waiving his or her right to offer evidence in the event the motion is not granted, may move for a dismissal of the charges.

If it appears that the evidence presented supports the granting of the motion as to some but not all of the issues involved in the action, the board or the authorized representative shall grant the motion as to those issues and the action shall proceed as to the issues remaining. Despite the granting of the motion, no judgment shall be entered prior to a final determination of the action on the remaining issues, and shall be subject to final review and approval by the board.

(b) If a contested case is heard by an authorized representative he shall prepare a proposed decision in such form that it may be adopted as the decision in the case. A copy of the proposed decision shall be filed by the board as a public record and furnished to each party within 10 days after the proposed decision is filed with the board. The board itself may adopt the proposed decision in its entirety, or may reduce the adverse action set forth therein and adopt the balance of the proposed decision.

(c) If the proposed decision is not adopted as provided in subdivision (b) each party shall be notified of such action, and the board itself may decide the case upon the record, including the transcript, with or without taking any additional evidence, or may refer the case to the same or another authorized representative to take additional evidence. If the case is so assigned to an authorized representative he shall prepare a proposed decision as provided in subdivision (b) upon the additional evidence and the transcript and other papers which are part of the record of the prior hearing. A copy of such proposed decision shall be furnished to each party. The board itself shall decide no case provided for in this subdivision without affording the parties the opportunity to present oral and written argument before the board itself. If additional oral evidence is introduced before the board itself no board member may vote unless he heard the additional oral evidence.

(d) In arriving at a decision or a proposed decision the board or its authorized representative may consider any prior suspension or suspensions of appellant by authority of any appointing power, or any prior proceedings under this article.

(e) The decision shall be in writing and contain findings of fact and the adverse action, if any. The findings may be stated in the language of the pleadings or by reference thereto. Copies of the decision shall be delivered to the parties personally or sent to them by registered mail.

SEC. 6. Section 19584 of the Government Code is amended to read:

19584. Whenever the board revokes or modifies an adverse action and orders that the employee be returned to his or her position, it shall direct the payment of salary and all interest accrued thereto, and the reinstatement of all benefits that otherwise would have normally accrued. Benefits shall include, but shall not be limited to, retirement, medical, dental, and seniority benefits pursuant to memoranda of understanding for that classification of employee to the employee for such period of time as the board finds the adverse action was improperly in effect.

Salary shall not be authorized or paid for any portion of a period of adverse action that the employee was not ready, able, and willing to perform the duties of his or her position, whether such adverse action is valid or not or the causes on which it is based state facts sufficient to constitute cause for discipline.

From any such salary due there shall be deducted compensation that the employee earned, or might reasonably have earned, during any period commencing more than six months after the initial date of the suspension.

CHAPTER 1196

An act to amend Sections 7852.8, 8230, 8233.5, and 8249 of the Fish and Game Code, relating to fish, making an appropriation therefor.

[Approved by Governor September 28, 1985 Filed with Secretary of State September 29, 1985]

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

SECTION 1. Section 7852.8 of the Fish and Game Code is amended to read:

7852.8. The owner or operator of each vessel holding a commercial salmon vessel permit under Section 8232 shall obtain a commercial fishing salmon stamp for each vessel owned or operated and pay the fees for the stamp under Sections 7852.5 and 7860 for each year, whether engaged in commercial fishing for salmon or not.

SEC. 2. Section 8230 of the Fish and Game Code is amended to read:

8230. (a) The Legislature finds and declares that commercial salmon fishing is affected with a public interest and that the preservation of commercial salmon fishing directly affects the health

and welfare of the public. The Legislature further finds and declares that, due to past declines in salmon stocks, the increase in the number of persons participating in commercial salmon fishing, the number and types of vessels being used, and the commensurate increase in the salmon fishing potential of the commercial salmon fishing fleet, it is necessary and proper to limit the persons who are eligible to take salmon for commercial purposes and to regulate the amount of salmon that may be taken by restricting the number and salmon fishing potential of the vessels in the commercial salmon fishing fleet in order to preserve and rebuild the salmon resource, to protect commercial salmon fishing, and thereby protect the health and welfare of the public.

(b) The Legislature further finds and declares the following:

(1) The system for allocating commercial salmon vessel permits enacted in this article is an interim system created in response to the urgent need to protect the salmon resource in California waters while inflicting the least hardship on the people of the state.

(2) The Legislature shall, on or before January 1, 1988, enact a permanent system to regulate entry into the commercial salmon fishery which will continue to be equitable and provide for new entry.

(3) In order to devise a permanent system to regulate entry into the commercial salmon fishery, the Legislature shall continue to collect information on the salmon fishery from the department with the assistance of the Joint Committee on Fisheries and Aquaculture. This information shall include the impact that equipment and experience have on the fishery and the burden placed on the fishery by commercial salmon fishermen.

(4) A report containing the requested information shall be prepared by the department with the assistance of the committee and transmitted to the Legislature on or before January 1, 1987.

SEC. 3. Section 8233.5 of the Fish and Game Code is amended to read:

8233.5. No vessel permit shall be issued or renewed under this article unless the owner or operator obtains a commercial fishing salmon stamp and pays the fees for the stamp prescribed in Sections 7852.5 and 7860 for that vessel prior to, or simultaneously with, the application for issuance or renewal of the commercial salmon vessel permit and the payment of fees under Section 8236.

SEC. 4. Section 8249 of the Fish and Game Code is amended to read:

8249. This article shall remain in effect only until January 1, 1987, and as of that date is repealed unless a later enacted statute, which is enacted before January 1, 1987, deletes or extends that date.

SEC. 5. (a) In order for the Commercial Salmon Fishing Review Board to assist in the creation of a permanent limited entry law, the Department of Fish and Game, with the advice of the Commercial Salmon Fishing Review Board, shall enter into a consulting services contract with one or more consultants acceptable to the Director of

Fish and Game.

(b) The Commercial Salmon Fishing Review Board, the Department of Fish and Game, the Department of Finance, and any other state agency involved in the letting of any contract under subdivision (a) shall act as expeditiously as possible so that the requirements of this article and the requirements of Resolution Chapter 141 of the Statutes of 1983, including the submission of reports to the Legislature and to the Department of Fish and Game, may be carried out in a timely manner.

(c) The Department of Fish and Game shall provide information to any consultant with whom a contract is entered into pursuant to this section. Notwithstanding any other provision of law, the personal services contract authorized by this section shall be exempt from Article 5 (commencing with Section 10355) of Chapter 2 of Part 2 of Division 2 of the Public Contract Code.

SEC. 6. No reimbursement is required by this act pursuant to 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 incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

SEC. 7. There is hereby appropriated the sum of forty-five thousand dollars ($45,000), from amounts paid for commercial salmon vessel permits or renewals of those permits in the Fish and Game Preservation Fund, to the Department of Fish and Game for expenditure during the 1985–86 and 1986–87 fiscal years to provide the funds for a personal services contract that shall result in a study and report needed to identify the overall economic impact that commercial salmon fishing has on the State of California, including the effects that the present and the future permanent commercial salmon limited entry law has, and may have, on the state's economy and the salmon resource. The study shall also explore and suggest, if feasible, an ideal or optimum fleet profile, taking all pertinent factors into consideration, so that the salmon resource and salmon fishing industry can exist in balance with one another.

CHAPTER 1197

An act to amend Section 6359 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 28, 1985 Filed with Secretary of State September 29, 1985]

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

SECTION 1. Section 6359 of the Revenue and Taxation Code is amended to read:

6359. (a) There are exempted from the taxes imposed by this part the gross receipts from the sale of and the storage, use, or other consumption in this state of food products for human consumption.

(b) For the purposes of this section, "food products" include all of the following:

(1) Cereals and cereal products, oleomargarine, meat and meat products, fish and fish products, eggs and egg products, vegetables and vegetable products, fruit and fruit products, spices and salt, sugar and sugar products, coffee and coffee substitutes, tea, cocoa and cocoa products, and nonmedicated chewing gum.

(2) Milk and milk products, milkshakes, malted milks, and any other similar type beverages which are composed at least in part of milk or a milk product and which require the use of milk or a milk product in their preparation.

(3) All fruit juices, vegetable juices, and other beverages, whether liquid or frozen, except bottled water, spirituous, malt or vinous liquors or carbonated beverages.

(c) For purposes of this section, "food products" do not include medicines and preparations in liquid, powdered, granular, tablet, capsule, lozenge, and pill form sold as dietary supplements or adjuncts.

(d) None of the exemptions provided for in this section apply to any of the following:

(1) When the food products are served as meals on or off the premises of the retailer.

(2) When the food products are furnished, prepared, or served for consumption at tables, chairs, or counters or from trays, glasses, dishes, or other tableware whether provided by the retailer or by a person with whom the retailer contracts to furnish, prepare, or serve food products to others.

(3) When the food products are ordinarily sold for immediate consumption on or near a location at which parking facilities are provided primarily for the use of patrons in consuming the products purchased at the location, even though such products are sold on a "take out" or "to go" order and are actually packaged or wrapped and taken from the premises of the retailer.

(4) When the food products are sold for consumption within a place, the entrance to which is subject to an admission charge, except for national and state parks and monuments, marinas, campgrounds, and recreational vehicle parks.

(5) When the food products are sold through a vending machine.

(6) When the food products sold are furnished in a form suitable for consumption on the seller's premises, and both of the following apply:

(A) Over 80 percent of the seller's gross receipts are from the sale of food products.

(B) Over 80 percent of the seller's retail sales of food products are

sales subject to tax pursuant to paragraph (1), (2), (3), or (7).

(7) When the food products are sold as hot prepared food products.

(e) "Hot prepared food products," for the purposes of paragraph (7) of subdivision (d), include a combination of hot and cold food items or components where a single price has been established for the combination and the food products are sold in such combination, such as a hot meal, a hot specialty dish or serving, or a hot sandwich or a hot pizza, including any cold components or side items. Paragraph (7) of subdivision (d) shall not apply to a sale for a separate price of bakery goods or beverages (other than bouillon, consommé, or soup), or where the food product is purchased cold or frozen; "hot prepared food products" means those products, items or components which have been prepared for sale in a heated condition and which are sold at any temperature which is higher than the air temperature of the room or place where they are sold.

SEC. 1.5. Section 6359 of the Revenue and Taxation Code is amended to read:

6359. (a) There are exempted from the taxes imposed by this part the gross receipts from the sale of and the storage, use, or other consumption in this state of food products for human consumption.

(b) For the purposes of this section, "food products" include all of the following:

(1) Cereals and cereal products, oleomargarine, meat and meat products, fish and fish products, eggs and egg products, vegetables and vegetable products, fruit and fruit products, spices and salt, sugar and sugar products, coffee and coffee substitutes, tea, cocoa and cocoa products, and nonmedicated chewing gum.

(2) Milk and milk products, milkshakes, malted milks, and any other similar type beverages which are composed at least in part of milk or a milk product and which require the use of milk or a milk product in their preparation.

(3) All fruit juices, vegetable juices, and other beverages, whether liquid or frozen, except bottled water, spirituous, malt or vinous liquors or carbonated beverages.

(c) For purposes of this section, "food products" do not include medicines and preparations in liquid, powdered, granular, tablet, capsule, lozenge, and pill form sold as dietary supplements or adjuncts.

(d) None of the exemptions provided for in this section apply to any of the following:

(1) When the food products are served as meals on or off the premises of the retailer.

(2) When the food products are furnished, prepared, or served for consumption at tables, chairs, or counters or from trays, glasses, dishes, or other tableware whether provided by the retailer or by a person with whom the retailer contracts to furnish, prepare, or serve food products to others.

(3) When the food products are ordinarily sold for immediate

consumption on or near a location at which parking facilities are provided primarily for the use of patrons in consuming the products purchased at the location, even though such products are sold on a "take out" or "to go" order and are actually packaged or wrapped and taken from the premises of the retailer.

(4) When the food products are sold for consumption within a place, the entrance to which is subject to an admission charge, except for national and state parks and monuments, marinas, campgrounds, and recreational vehicle parks.

(5) When the food products sold are furnished in a form suitable for consumption on the seller's premises, and both of the following apply:

(A) Over 80 percent of the seller's gross receipts are from the sale of food products.

(B) Over 80 percent of the seller's retail sales of food products are sales subject to tax pursuant to paragraph (1), (2), (3), or (6).

(6) When the food products are sold as hot prepared food products.

(e) "Hot prepared food products," for the purposes of paragraph (6) of subdivision (d), include a combination of hot and cold food items or components where a single price has been established for the combination and the food products are sold in such combination, such as a hot meal, a hot specialty dish or serving, or a hot sandwich or a hot pizza, including any cold components or side items. Paragraph (6) of subdivision (d) shall not apply to a sale for a separate price of bakery goods or beverages (other than bouillon, consommé, or soup), or where the food product is purchased cold or frozen; "hot prepared food products" means those products, items or components which have been prepared for sale in a heated condition and which are sold at any temperature which is higher than the air temperature of the room or place where they are sold.

SEC. 2. Notwithstanding Section 2230 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to the section nor shall there by any appropriation made by this act because revenue losses to local agencies due to this act are minor in nature and will not cause any financial burden to local government.

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 the first day of the first calendar quarter commencing more than 90 days after the effective date of this act or January 1, 1986, whichever date is sooner.

SEC. 4. Section 1.5 of this bill incorporates amendments to Section 6359 of the Revenue and Taxation Code proposed by both this bill and SB 40. It shall only become operative if (1) both bills are enacted and become operative on January 1, 1986, (2) each bill amends Section 6359 of the Revenue and Taxation Code, and (3) this bill is enacted after SB 40, in which case Section 1 of this bill shall not become operative.

CHAPTER 1198

An act to add Chapter 10 (commencing with Section 2800) to Division 2 of the Public Resources Code, relating to earthquakes, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1985 Filed with Secretary of State September 29, 1985]

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

SECTION 1. Chapter 10 (commencing with Section 2800) is added to Division 2 of the Public Resources Code, to read:

CHAPTER 10. EARTHQUAKES

2800. The Legislature finds and declares all of the following:

(a) The state's major metropolitan areas are subject to potentially devastating large magnitude earthquakes and earth scientists estimate that there is a high probability that one or more large earthquakes will occur in California between now and the end of the century.

(b) Loss of life and property damage resulting from a damaging earthquake could be substantially reduced if there existed a reliable short-term earthquake prediction system capable of providing public warning of the size and location of a damaging earthquake within a timeframe of a few weeks to a few hours.

(c) While earth scientists are not in full agreement about the feasibility of short-term earthquake prediction, there is increasing interest in the possibility that precursory geochemical and geophysical phenomena can be identified within short timeframes and that these precursory events can become the basis for timely and reliable warnings of damaging earthquakes.

(d) California currently has a unique opportunity to assess the feasibility of short-term earthquake prediction by joining the United States Geological Survey in a study of the Parkfield section of the San Andreas fault in Monterey County. This section has, between 1857 and 1966, produced almost identical earthquakes of about 5.6 magnitude on the average of every 22 years. Another earthquake probably will occur in January of 1988, plus or minus four years. If adequate instrumentation is in place by the time the earthquake occurs, it may be possible to identify specific precursory phenomena. However, at present, the instrumentation is not considered adequate to fully monitor precursory events and, because of anticipated federal budget cuts, additional instrumentation is unlikely to be installed unless the state is able to participate in the Parkfield study. State participation would also allow the United States Geological Survey to share its data from Parkfield and permit the state to

independently analyze and evaluate this data specifically for earthquake prediction and response purposes.

(e) If precursory earthquake phenomena are identified as a result of the Parkfield study, there is a need to assess the feasibility of establishing a statewide earthquake prediction system and to develop a short-term response plan which, among other things, would include development of procedures for verifying the predicted event and guidelines for taking state action in response to anomalous precursory phenomena.

2801. As used in this chapter:

(a) "Long-term prediction" means a prediction of an earthquake that is expected to occur within a few years up to a few decades.

(b) "Intermediate-term prediction" means a prediction of an earthquake that is expected to occur within a period of a few weeks to a few years.

(c) "Short-term prediction" means a prediction of an earthquake that is expected to occur within a few hours to a few weeks.

(d) "Parkfield prototype earthquake prediction system" means a dense cluster of instruments along the Parkfield section of the San Andreas fault which monitors earthquake activity, local distortion of the Earth's crust, strain levels, creep adjustments along the fault, and other phenomena which may be useful in making a short-term earthquake prediction.

(e) "Parkfield characteristic earthquake" means an earthquake that has, among other qualities, a magnitude between 5.5 and 6.0 on the Richter scale, and occurs on a location somewhere along the 15-mile section of the San Andreas fault that is centered in the City of Parkfield.

2802. (a) The department shall develop jointly with the United States Geological Survey a prototype earthquake prediction system along the cental San Andreas fault near the City of Parkfield.

(b) The system shall include a dense cluster of seismic and crustal deformation instrumentation capable of monitoring geophysical and geochemical phenomena associated with earthquakes in the region. These data shall be analyzed continuously to determine if precursory anomalies can be identified with sufficient certainty to make a short-term prediction. The department shall not duplicate any of the ongoing efforts of the United States Geological Survey or any public or private college or university in the development of this system.

(c) In meeting its obligations under this chapter, the department shall develop, in cooperation with the United States Geological Survey, a plan for completion of the Parkfield instrumentation network. The plan shall provide for all of the following:

(1) Augmentation of monitoring instruments with the goal of detecting precursors of the Parkfield characteristic earthquake.

(2) Operation by the department of a remote data review station in Sacramento which will provide state scientists with data from the Parkfield prototype earthquake prediction system and other data, as required, to advise the Office of Emergency Services of the

occurrence of precursors and verification of the predicted event.

(3) Advising the United States Geological Survey, the Office of Emergency Services, the Seismic Safety Commission, and the California Earthquake Prediction Evaluation Council, regarding the department's review of Parkfield data.

(d) On January 1, 1987, the department shall issue a progress report to the Governor, the Legislature, and the Seismic Safety Commission. An annual progress report shall be made each year thereafter. The project shall terminate on January 1, 1992, unless extended by statute.

2803. (a) Concurrently with the development of the Parkfield prototype earthquake prediction system, the Office of Emergency Services, in consultation with the California Earthquake Prediction Evaluation Council, shall develop a comprehensive emergency response plan for short-term earthquake predictions. The plan shall include all of the following:

(1) A method of peer review involving the California Earthquake Prediction Evaluation Council to evaluate the validity of short-term earthquake predictions and to develop guidelines for initiating state action in response to anomalous geochemical and geophysical phenomena.

(2) A means of rapidly activating governmental response to a predicted event.

(3) Plans for mitigating earthquake losses to vulnerable populations, including, but not limited to, drawdown of impoundment levels behind dams, positioning of emergency equipment in safe areas, and mobilization of firefighting, law enforcement, rescue, and medical personnel.

(4) A public warning system.

(5) Strategies for dealing with earthquake predictions that fail to occur (false alarms) and the failure of an earthquake prediction system to forecast a damaging event.

(b) The Office of Emergency Services shall consult with the department, the Seismic Safety Commission, the United States Geological Survey, and the Federal Emergency Management Agency in the development of the plan.

2804. The department and the Seismic Safety Commission may solicit and receive gifts and grants from other public and private agencies for the state's share of costs under this chapter.

SEC. 2. The sum of one million seventy-five thousand dollars ($1,075,000) is hereby appropriated from the General Fund for allocation as follows:

(a) One million dollars ($1,000,000) to the Department of Conservation for the purpose of establishing the prototype earthquake prediction system.

(b) Seventy-five thousand dollars ($75,000) to the Office of Emergency Services for the development of a comprehensive earthquake prediction response plan, as described in Chapter 10 (commencing with Section 2800) of Division 2 of the Public

Resources Code. No appropriated funds may be encumbered until matching federal assistance funds are received by the state.

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

In order that state funding may be coordinated with federal funding for earthquake prediction research which is expected to become available in October of 1985, it is necessary that this act take effect immediately.

CHAPTER 1199

An act to amend Sections 50668.4, 65091, 65092, 65302, 65451, 65453, 65456, 65850, 65901, 66492, and 66717 of the Government Code, relating to planning.

[Approved by Governor September 28, 1985 Filed with Secretary of State September 29, 1985]

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

SECTION 1. Section 50668.4 of the Government Code, as added by Chapter 320 of the Statutes of 1985, is amended to read:

50668.4. All pledged revenue shall be deposited in the special fund and payments shall be made therefrom in the order specified in subdivisions (a) to (c), inclusive, of Section 50665.7.

SEC. 2. Section 65091 of the Government Code is amended to read:

65091. (a) When a provision of this title requires notice of a public hearing to be given pursuant to this section, notice shall be given in all of the following ways:

(1) Notice of the hearing shall be mailed or delivered at least 10 days prior to the hearing to the owner of the subject real property or the owner's duly authorized agent, and to the project applicant.

(2) Notice of the hearing shall be mailed or delivered at least 10 days prior to the hearing to each local agency expected to provide water, sewage, streets, roads, schools, or other essential facilities or services to the project, whose ability to provide those facilities and services may be significantly affected.

(3) Notice of the hearing shall be mailed or delivered at least 10 days prior to the hearing to all owners of real property as shown on the latest equalized assessment roll within 300 feet of the real property that is the subject of the hearing. In lieu of utilizing the assessment roll, the local agency may utilize records of the county assessor or tax collector which contain more recent information than the assessment roll. If the number of owners to whom notice would be mailed or delivered pursuant to this paragraph or paragraph (1)

is greater than 1,000, a local agency, in lieu of mailed or delivered notice, may provide notice by placing a display advertisement of at least one-eighth page in at least one newspaper of general circulation within the local agency in which the proceeding is conducted at least 10 days prior to the hearing.

(4) If the notice is mailed or delivered pursuant to paragraph (3), the notice shall also either be:

(A) Published pursuant to Section 6061 in at least one newspaper of general circulation within the local agency which is conducting the proceeding at least 10 days prior to the hearing.

(B) Posted at least 10 days prior to the hearing in at least three public places within the boundaries of the local agency, including one public place in the area directly affected by the proceeding.

(b) The notice shall include the information specified in Section 65094.

(c) In addition to the notice required by this section, a local agency may give notice of the hearing in any other manner it deems necessary or desirable.

SEC. 3. Section 65092 of the Government Code is amended to read:

65092. When a provision of this title requires notice of a public hearing to be given pursuant to Section 65090 or 65091, the notice shall also be mailed or delivered at least 10 days prior to the hearing to any person who has filed a written request for notice with either the clerk of the governing body or with any other person designated by the governing body to receive these requests. The local agency may charge a fee which is reasonably related to the costs of providing this service and the local agency may require each request to be annually renewed.

SEC. 4. Section 65302 of the Government Code, as amended by Chapter 114 of the Statutes of 1985, is amended to read:

65302. The general plan shall consist of a statement of development policies and shall include a diagram or diagrams and text setting forth objectives, principles, standards, and plan proposals. The plan shall include the following elements:

(a) A land use element which designates the proposed general distribution and general location and extent of the uses of the land for housing, business, industry, open space, including agriculture, natural resources, recreation, and enjoyment of scenic beauty, education, public buildings and grounds, solid and liquid waste disposal facilities, and other categories of public and private uses of land. The land use element shall include a statement of the standards of population density and building intensity recommended for the various districts and other territory covered by the plan. The land use element shall identify areas covered by the plan which are subject to flooding and shall be reviewed annually with respect to those areas. The land use element shall designate, in a land use category that provides for timber production, those parcels of real property zoned for timberland production pursuant to the California

Timberland Productivity Act of 1982, Chapter 6.7 (commencing with Section 51100) of Part 1 of Division 1 of Title 5.

(b) A circulation element consisting of the general location and extent of existing and proposed major thoroughfares, transportation routes, terminals, and other local public utilities and facilities, all correlated with the land use element of the plan.

(c) A housing element as provided in Article 10.6 (commencing with Section 65580).

(d) A conservation element for the conservation, development, and utilization of natural resources including water and its hydraulic force, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals, and other natural resources. That portion of the conservation element including waters shall be developed in coordination with any countywide water agency and with all district and city agencies which have developed, served, controlled or conserved water for any purpose for the county or city for which the plan is prepared. The conservation element may also cover:

(1) The reclamation of land and waters.

(2) Prevention and control of the pollution of streams and other waters.

(3) Regulation of the use of land in stream channels and other areas required for the accomplishment of the conservation plan.

(4) Prevention, control, and correction of the erosion of soils, beaches, and shores.

(5) Protection of watersheds.

(6) The location, quantity and quality of the rock, sand and gravel resources.

(7) Flood control.

The conservation element shall be prepared and adopted no later than December 31, 1973.

(e) An open-space element as provided in Article 10.5 (commencing with Section 65560).

(f) A noise element which shall identify and appraise noise problems in the community. The noise element shall recognize the guidelines established by the Office of Noise Control in the State Department of Health Services and shall analyze and quantify, to the extent practicable, as determined by the legislative body, current and projected noise levels for all of the following sources:

(1) Highways and freeways.

(2) Primary arterials and major local streets.

(3) Passenger and freight on-line railroad operations and ground rapid transit systems.

(4) Commercial, general aviation, heliport, helistop, and military airport operations, aircraft overflights, jet engine test stands, and all other ground facilities and maintenance functions related to airport operation.

(5) Local industrial plants, including, but not limited to, railroad classification yards.

(6) Other ground stationary noise sources identified by local

agencies as contributing to the community noise environment.

Noise contours shall be shown for all of these sources and stated in terms of community noise equivalent level (CNEL) or day-night average level (L_{dn}). The noise contours shall be prepared on the basis of noise monitoring or following generally accepted noise modeling techniques for the various sources identified in paragraphs (1) to (6), inclusive.

The noise contours shall be used as a guide for establishing a pattern of land uses in the land use element that minimizes the exposure of community residents to excessive noise.

The noise element shall include implementation measures and possible solutions that address existing and foreseeable noise problems, if any. The adopted noise element shall serve as a guideline for compliance with the state's noise insulation standards.

(g) A safety element for the protection of the community from any unreasonable risks associated with the effects of seismically induced surface rupture, ground shaking, ground failure, tsunami, seiche, and dam failure; slope instability leading to mudslides and landslides; subsidence and other geologic hazards known to the legislative body; flooding; and wild land and urban fires. The safety element shall include mapping of known seismic and other geologic hazards. It shall also address evacuation routes, peakload water supply requirements, and minimum road widths and clearances around structures, as those items relate to identified fire and geologic hazards.

To the extent that a county's safety element is sufficiently detailed and contains appropriate policies and programs for adoption by a city, a city may adopt that portion of the county's safety element that pertains to the city's planning area in satisfaction of the requirement imposed by this subdivision.

Each county and city shall submit to the Division of Mines and Geology of the Department of Conservation one copy of the safety element and any technical studies used for developing the safety element.

SEC. 5. Section 65451 of the Government Code is amended to read:

65451. (a) A specific plan shall include a text and a diagram or diagrams which specify all of the following in detail:

(1) The distribution, location, and extent of the uses of land, including open space, within the area covered by the plan.

(2) The proposed distribution, location, and extent and intensity of major components of public and private transportation, sewage, water, drainage, solid waste disposal, energy, and other essential facilities proposed to be located within the area covered by the plan and needed to support the land uses described in the plan.

(3) Standards and criteria by which development will proceed, and standards for the conservation, development, and utilization of natural resources, where applicable.

(4) A program of implementation measures including regulations,

programs, public works projects, and financing measures necessary to carry out paragraphs (1), (2), and (3).

(b) The specific plan shall include a statement of the relationship of the specific plan to the general plan.

SEC. 6. Section 65453 of the Government Code is amended to read:

65453. (a) A specific plan shall be prepared, adopted, and amended in the same manner as a general plan, except that a specific plan may be adopted by resolution or by ordinance and may be amended as often as deemed necessary by the legislative body.

(b) A specific plan may be repealed in the same manner as it is required to be amended.

SEC. 7. Section 65456 of the Government Code, as amended by Chapter 338 of the Statutes of 1985, is amended to read:

65456. (a) The legislative body, after adopting a specific plan, may impose a specific plan fee upon persons seeking governmental approvals which are required to be consistent with the specific plan. The fees shall be established so that, in the aggregate, they defray but as estimated do not exceed, the cost of preparation, adoption, and administration of the specific plan, including costs incurred pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code. As nearly as can be estimated, the fee charged shall be a prorated amount in accordance with the applicant's relative benefit derived from the specific plan. It is the intent of the Legislature in providing for such fees to charge persons who benefit from specific plans for the costs of developing those specific plans which result in savings to them by reducing the cost of documenting environmental consequences and advocating changed land uses which may be authorized pursuant to the specific plan.

(b) Notwithstanding Section 54992, a city or county may require a person who requests adoption, amendment, or repeal of a specific plan to deposit with the planning agency an amount equal to the estimated cost of preparing the plan, amendment, or repeal prior to its preparation by the planning agency.

(c) Copies of the documents adopting or amending the specific plan, including the diagrams and text, shall be made available to local agencies, and shall be made available to the general public as follows:

(1) Within one working day following the date of adoption, the clerk of the legislative body shall make the documents adopting or amending the plan, including the diagrams and text, available to the public for inspection.

(2) Within two working days after receipt of a request for a copy of the documents adopting or amending the plan, including the diagrams and text, accompanied by payment for the reasonable cost of copying, the clerk shall furnish the requested copy to the person making the request.

(d) A city or county may charge a fee for a copy of a specific plan or amendments to a specific plan in an amount that is reasonably related to the cost of providing that document.

SEC. 8. Section 65850 of the Government Code is amended to read:

65850. The legislative body of any county or city may, pursuant to this chapter, adopt ordinances that do any of the following:

(a) Regulate the use of buildings, structures, and land as between industry, business, residences, open space, including agriculture, recreation, enjoyment of scenic beauty, use of natural resources, and other purposes.

(b) Regulate signs and billboards.

(c) Regulate all of the following:

(1) The location, height, bulk, number of stories, and size of buildings and structures.

(2) The size and use of lots, yards, courts, and other open spaces.

(3) The percentage of a lot which may be occupied by a building or structure.

(4) The intensity of land use.

(d) Establish requirements for offstreet parking and loading.

(e) Establish and maintain building setback lines.

(f) Create civic districts around civic centers, public parks, public buildings, or public grounds, and establish regulations for those civic districts.

SEC. 9. Section 65901 of the Government Code is amended to read:

65901. (a) The board of zoning adjustment or zoning administrator shall hear and decide applications for conditional uses or other permits when the zoning ordinance provides therefor and establishes criteria for determining those matters, and applications for variances from the terms of the zoning ordinance. The board of zoning adjustment or the zoning administrator may also exercise any other powers granted by local ordinance, and may adopt all rules and procedures necessary or convenient for the conduct of the board's or administrator's business.

(b) In accordance with the requirements for variances specified in Section 65906, the legislative body of the city or county may, by ordinance, authorize the board of zoning adjustment or zoning administrator to decide applications for variance from the terms of the zoning ordinance without a public hearing on the application. That ordinance shall specify the kinds of variances which may be granted by the board of zoning adjustment or zoning administrator, and the extent of variation which the board of zoning adjustment or zoning administrator may allow.

SEC. 10. Section 66492 of the Government Code, as amended by Chapter 114 of the Statutes of 1985, is amended to read:

66492. Prior to the filing of the final map or parcel map with the legislative body, the subdivider shall, in accordance with procedures established by the county, file with the county recorder 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..

SEC. 11. Section 66717 of the Government Code is amended to read:

66717. "Regional planning agency" means any of the following:

(1) An agency organized pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1.

(2) A regional planning district formed pursuant to Chapter 2 (commencing with Section 65060) of Division 1 of Title 7.

(3) A joint area planning commission formed pursuant to Section 65101.

(4) Any agency established by legislative act and recognized by the Office of Planning and Research as performing general environmental and resources planning for any region of the state.

CHAPTER 1200

An act to amend Sections 81012, 91007, and 91013 of the Government Code, relating to the Political Reform Act of 1974.

[Approved by Governor September 28, 1985. Filed with Secretary of State September 29, 1985]

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

SECTION 1. Section 81012 of the Government Code is amended to read:

81012. This title may be amended or repealed by the procedures set forth in this section. If any portion of subdivision (a) is declared invalid, then subdivision (b) shall be the exclusive means of amending or repealing this title.

(a) This title may be amended to further its purposes by statute, passed in each house by rollcall vote entered in the journal, two-thirds of the membership concurring and signed by the Governor, if at least 12 days prior to passage in each house the bill in its final form has been delivered to the commission for distribution to the news media and to every person who has requested the commission to send copies of such bills to him or her.

(b) This title may be amended or repealed by a statute that becomes effective only when approved by the electors.

SEC. 2. Section 91007 of the Government Code is amended to read:

91007. (a) Any person, before filing a civil action pursuant to Sections 91004 and 91005, must first file with the civil prosecutor a written request for the civil prosecutor to commence the action. The request shall include a statement of the grounds for believing a cause

of action exists. The civil prosecutor shall respond within forty days after receipt of the request, indicating whether he intends to file a civil action. If the civil prosecutor indicates in the affirmative, and files suit within forty days thereafter, no other action may be brought unless the action brought by the civil prosecutor is dismissed without prejudice as provided for in Section 91008.

(b) Any person filing a complaint, cross-complaint or other initial pleading in a civil action pursuant to Sections 91003, 91004, 91005, or 91005.5 shall, within 10 days of filing the complaint, cross-complaint, or initial pleading, serve on the Fair Political Practices Commission a copy of the complaint, cross-complaint, or initial pleading or a notice containing all of the following:

(1) The full title and number of the case.

(2) The court in which the case is pending.

(3) The name and address of the attorney for the person filing the complaint, cross-complaint, or other initial pleading.

(4) A statement that the case raises issues under the Political Reform Act.

(c) No complaint, cross-complaint, or other initial pleading shall be dismissed for failure to comply with subdivision (b).

SEC. 3. Section 91013 of the Government Code is amended to read:

91013. (a) If any person files an original statement or report after any deadline imposed by this act, he or she shall, in addition to any other penalties or remedies established by this act, be liable in the amount of ten dollars ($10) per day after the deadline until the statement or report is filed, to the officer with whom the statement or report is required to be filed. Liability need not be enforced by the filing officer if on an impartial basis he or she determines that the late filing was not willful and that enforcement of the liability will not further the purposes of the act, except that no liability shall be waived if a statement or report is not filed within 30 days for a statement of economic interest, other than a candidate's statement filed pursuant to Section 87201, five days for a second preelection campaign statement, and 10 days for all other statements or reports, after the filing officer has sent specific written notice of the filing requirement.

(b) If any person files a copy of a statement or report after any deadline imposed by this act, he or she shall, in addition to any other penalties or remedies established by this chapter, be liable in the amount of ten dollars ($10) per day, starting 10 days, or five days in the case of the second preelection campaign statement, after the officer has sent specific written notice of the filing requirement and until the statement is filed.

(c) The officer shall deposit any funds received under this section into the general fund of the jurisdiction of which he or she is an officer. No liability under this section shall exceed the cumulative amount stated in the late statement or report, or one hundred dollars ($100), whichever is greater.

SEC. 4. 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.

CHAPTER 1201

An act to amend Sections 3016, 3050, 3050.5, 3062, and 11723 of, and to add Section 3050.7 to, the Vehicle Code, relating to occupational licenses, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1985 Filed with Secretary of State September 29, 1985]

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

SECTION 1. Section 3016 of the Vehicle Code is amended to read:

3016. New vehicle dealers and other licensees under the jurisdiction of the 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. 2. Section 3050 of the Vehicle Code is amended to read:

3050. The board shall do all of the following:

(a) Adopt rules and regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code governing such matters as are specifically committed to its jurisdiction.

(b) Hear and consider, within the limitations and in accordance with the procedure provided, an appeal presented by an applicant for, or holder of, a license as a new motor vehicle dealer, manufacturer, manufacturer branch, distributor, distributor branch, or representative when the applicant or licensee submits an appeal provided for in this chapter from a decision arising out of the department.

(c) Consider any matter concerning the activities or practices of any person applying for or holding a license as a new motor vehicle dealer, manufacturer, manufacturer branch, distributor, distributor branch, or representative pursuant to Chapter 4 (commencing with Section 11700) of Division 5 submitted by any person. A member of the board who is a new motor vehicle dealer may not participate in,

hear, comment, advise other members upon, or decide any matter considered by the board pursuant to this subdivision that involves a dispute between a franchisee and franchisor. After such consideration, the board may do any one or any combination of the following:

(1) Direct the department to conduct investigation of matters that the board deems reasonable, and make a written report on the results of the investigation to the board within the time specified by the board.

(2) Undertake to arbitrate amicably or resolve any honest difference of opinion or viewpoint existing between any member of the public and any new motor vehicle dealer, manufacturer, manufacturer branch, distributor branch, or representative.

(3) Order the department to exercise any and all authority or power that the department may have with respect to the issuance, renewal, refusal to renew, suspension, or revocation of the license of any new motor vehicle dealer, manufacturer, manufacturer branch, distributor, distributor branch, or representative as such license is required under Chapter 4 (commencing with Section 11700) of Division 5.

(d) Hear and consider, within the limitations and in accordance with the procedure provided, a protest presented by a franchisee pursuant to Section 3060, 3062, 3064, or 3065. A member of the board who is a new motor vehicle dealer may not participate in, hear, comment, advise other members upon, or decide, any matter involving a protest filed pursuant to Article 4 (commencing with Section 3060).

SEC. 3. Section 3050.5 of the Vehicle Code is amended to read:

3050.5. Pursuant to Section 3016, the board shall establish a fee for the initial filing by any party in regard to any appeal, protest, or petition filed pursuant to this chapter.

SEC. 4. Section 3050.7 is added to the Vehicle Code, to read:

3050.7. Whenever the parties to any protest or petition submit a proposed stipulated decision and proposed order of the board, a copy of the proposed stipulated decision and order shall be transmitted by the secretary of the board to each member of the board. The proposed stipulated decision and order shall be deemed to be adopted by the board unless any member of the board notifies the secretary of the board of an objection thereto within 10 days after that board member has received a copy of the proposed stipulated decision and order.

SEC. 5. Section 3062 of the Vehicle Code is amended to read:

3062. (a) Except as otherwise provided in subdivisions (b) and (c), in the event that a franchisor seeks to enter into a franchise establishing an additional motor vehicle dealership within a relevant market area where the same line-make is then represented, or relocating an existing motor vehicle dealership, the franchisor shall in writing first notify the board and each franchisee in that line-make in the relevant market area of the franchisor's intention to establish

an additional dealership or to relocate an existing dealership within or into that market area. Within 20 days of receiving that notice or within 20 days after the end of any appeal procedure provided by the franchisor, any such franchisee may file with the board a protest to the establishing or relocating of the dealership. If within this time a franchisee files with the board a request for additional time to file a protest, the board or its secretary, upon a showing of good cause, may grant an additional 10 days to file the protest. When such a protest is filed, the board shall inform the franchisor that a timely protest has been filed, that a hearing is required pursuant to Section 3066, and that the franchisor shall not establish or relocate the proposed dealership until the board has held a hearing as provided in Section 3066, nor thereafter, if the board has determined that there is good cause for not permitting the dealership. In the event of multiple protests, hearings may be consolidated to expedite the disposition of the issue.

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

(1) The relocation of an existing dealership to any location which is both within the same city as, and is within one mile from, the existing dealership location.

(2) The establishment at any location which is both within the same city as, and is within one-quarter mile from, the location of a dealership of the same line-make that has been out of operation for less than 90 days.

(c) Subdivision (a) does not apply to the establishment of a branch office for selling vehicles at a fair, exposition, or similar exhibit that does not exceed 30 days.

(d) For the purposes of this section, the reopening of a dealership that has not been in operation for one year or more shall be deemed the establishment of an additional motor vehicle dealership.

SEC. 6. 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, dealer branch, 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. The board may also require that an additional fee be paid to the department when the licensee has failed to pay the fee authorized by Section 3016 prior to the expiration of its occupational license and special plates and the licensee utilizes the 30-day late renewal period authorized by subdivision (c) of Section 11717.

This section 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. 7. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to comply with court decisions regarding hearings of the New Motor Vehicle Board, and to revise administrative procedures of the board as early as possible, it is necessary that this act take effect immediately.

CHAPTER 1202

An act to add Chapter 2 (commencing with Section 15000) to Division 5 of the Insurance Code, relating to insurance, and making an appropriation therefor.

[Approved by Governor September 28, 1985 Filed with Secretary of State September 29, 1985.]

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

SECTION 1. Chapter 2 (commencing with Section 15000) is added to Division 5 of the Insurance Code, to read:

CHAPTER 2. PUBLIC INSURANCE ADJUSTERS ACT

Article 1. General Provisions

15000. This chapter may be cited as the Public Insurance Adjusters Act.

15001. As used in this chapter:

(a) "Commissioner" means the Insurance Commissioner.

(b) "Deparment" means the Department of Insurance.

(c) "Licensee" means a person licensed under this chapter.

(d) "Person" includes any individual, firm, company, association, organization, partnership, and corporation.

15002. 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

15003. The commissioner may, in accordance with the State Civil Service Act, appoint those inspectors, investigators, and other personnel as may be necessary for the administration and enforcement of this chapter.

15004. Every power and duty granted to or imposed upon the commissioner may be exercised by any other officer or employee of the department authorized by the commissioner, but the

commissioner shall have the supervision of and the responsibility for all powers and duties exercised by those officers and employees.

15005. The commissioner may adopt and enforce reasonable rules:

(a) Fixing the qualifications of licensees in addition to those prescribed in the chapter, necessary to promote and protect the public welfare.

(b) Carrying out generally the provisions of this chapter, including regulation of the conduct of licensees.

(c) For a change in the classification of a licensee, or in the type of business organization upon application therefore by a licensee, and to prescribe the fee, if any, to be paid.

Article 3. Regulation, Licensing, and Registration

15006. No person shall engage in a business regulated by this chapter, or act or assume to act as, or represent himself or herself to be, a licensee unless he or she is licensed under this chapter.

15007. A public insurance adjuster within the meaning of this chapter is a person who, for compensation, acts on behalf of or aids in any manner, an insured in negotiating for or effecting the settlement of a claim or claims for loss or damage under any policy of insurance covering real or personal property or any person who advertises, solicits business, or holds himself or herself out to the public as an adjuster of those claims and any person who, for compensation, investigates, settles, adjusts, advises, or assists an insured with reference to claims for those losses on behalf of any public insurance adjuster.

15008. This chapter does not apply to:

(a) An officer or employee of the United States of America or of the state or of a political subdivision thereof while the officer or employee is engaged in the performance of his or her official duties.

(b) A charitable philanthropic society duly incorporated under the laws of this state which is organized and maintained for the public good and not for private profit.

(c) An attorney at law in performing his or her duties as an attorney at law.

(d) Admitted insurers, agents, and insurance brokers licensed by the state performing duties in connection with insurance transactions by them.

(e) The legal owner of personal property which has been sold under a conditional sales agreement or a mortgagee under the terms of a chattel mortgage.

(f) Any salaried office employee who performs exclusively clerical and administrative duties attendant to the disposition of the business regulated by this chapter.

(g) Photographers, estimators, appraisers, engineers, and arbitrators, who are employed exclusively by a public insurance adjuster for the purpose of furnishing technical assistance to a

licensed public insurance adjuster.

(h) A private investigator licensed pursuant to Chapter 11.5 (commencing with Section 7512) of Division 3 of the Business and Professions Code while acting within the scope of that license.

15009. An application for a license under this chapter shall be on a form prescribed by the commissioner and accompanied by the application fee provided by this chapter. Every applicant for a license under this chapter shall comply with the provisions of Section 1703.

15010. An application shall be verified and shall include all of the following:

(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 resident address of each of its partners, officers, and directors.

(f) Two recent photographs of the applicant, of the type prescribed by the commissioner, 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 commissioner.

15011. Before an application for a license is granted, the applicant shall meet all of the following:

(a) Be at least 18 years of age.

(b) Be a bona fide resident of the State of California.

(c) Must be of good character and shall not have committed acts or crimes constituting grounds for denial of licensure under Section 1668.

(d) Shall have had sufficient experience, or special education or training, or both, in the handling of loss claims under insurance contracts as determined by regulations adopted by the commissioner, and is competent to transact business and discharge the responsibilities of a public insurance adjuster in such a manner as to safeguard the interests of the public.

(e) Must maintain an office in the State of California with public access during regular business hours.

(f) Pass an exam given by the commissioner in regard to property loss adjusting.

(g) Post a surety bond executed by a surety company authorized to do business in this state in the sum of five thousand dollars ($5,000).

(h) Comply with any other qualifications as required by the commissioner.

15012. The license issued by the commissioner shall include, but

not be limited to, adjusting claims for fire and allied coverages, burglary, flood, and all property claims both real and personal, and loss of income.

15013. Each applicant for a license as a public insurance adjuster, except as provided in Section 15014, shall, prior to issuance of the license, personally take and pass, to the satisfaction of the commissioner, an examination given by the department as follows:

(a) The examination shall be prescribed by the commissioner and shall be of sufficient scope reasonably to test the applicant's knowlege, among other things, of basic insurance theory, essential elements of contracts, technical competence in the handling of the various lines for which the applicant is being tested, claims ethics and knowledge of the Unfair Claims Practices Act, and the duties and responsibilities of public insurance adjusters under the law.

(b) Such examination shall be given to applicants under the supervision of the department of this state, and shall be in written form.

(c) The commissioner shall, within a reasonable period of time, not to exceed 30 days, transmit the results of the examination and action taken on the application to the applicant.

(d) In the event an applicant, who is otherwise qualified, fails the examination, the commissioner may administer a reexamination, after a waiting period not to exceed six months.

(e) The examination shall be given at those times and places within the state as the commissioner deems reasonably necessary to serve the convenience of the department and applicants.

15014. Examination for licensure as required in Section 15013 of this chapter is hereby waived for an applicant who applies for a license within one year of the effective date of this act and who, for a six-month period prior to the effective date of this act, has been licensed under Chapter 1 (commencing with Section 14000).

15015. Payment of the application fee prescribed by this chapter entitles the applicant 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 subsequent examination.

15016. (a) The commissioner shall issue an interim license to all qualified individuals for the purpose of training so long as the persons meet all of the following requirements:

(1) Are employed and under the direct supervision of a person licensed under the provisions of this chapter.

(2) Qualify under the applicable provisions of Section 15011.

(3) Pay a license fee of one hundred dollars ($100).

(4) Comply with any other qualifications required by the commissioner.

(b) An interim license may be issued for a period not to exceed one year and may not be renewed.

15017. A nonresident license shall be issued by the commissioner

to qualified persons who meet the requirements of this chapter as set forth in subdivisions (a), (c), (d), (e), (f), (g), and (h) of Section 15011 and who have appointed the commissioner as an agent for service of process in this state.

15018. After a hearing, the commissioner may deny a license unless the applicant makes a showing satisfactory to the commissioner that the applicant has not:

(a) Committed any acts or crimes constituting grounds for denial of license under Section 1668.

(b) Been refused a license under this chapter or had a license revoked.

(c) While unlicensed, committed, aided or abetted the commission of any acts for which a license is required in this chapter.

(d) Been convicted of any crime or wrongdoings in connection with this license.

15019. Whenever a hearing is held under this chapter to determine whether an applicant for a license should be granted or to determine the qualifications of a licensee, the proceeding shall be conducted in accordance with Chapter 5 (commencing with Section 11501) of Part 1 of Division 3 of Title 2 of the Government Code, and the commissioner shall have all the powers granted therein.

15020. The form and content of the license shall be determined by the commissioner in accordance with Section 164 of the Business and Professions Code.

15021. The license shall at all times be posted in a conspicuous place in the principal place of business of the licensee.

15022. Upon the issuance of a license, a pocket card of that size, design, and content as may be determined by the commissioner shall be issued without charge to each licensee.

15023. A license issued under this chapter is not assignable.

15024. Each licensee shall file with the commissioner 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 commissioner may require the filing of other information for the purposes of indentifying that principal place of business.

15025. A licensee shall within 30 days of the change notify the department of any change of his or her address. The principal place of business may be at home or at a business address but it shall be the place at which the licensee maintains a permanent office.

15026. A licensee shall not advertise or conduct business from any location other than that shown on the records of the commissioner as his or her principal place of business unless he or she has received a branch office certificate for that location after compliance with the provisions of this chapter and those additional requirements necessary for the protection of the public as the commissioner may by regulation prescribe. A licensee shall notify the commissioner in writing within 10 days of closing or changing the location of a branch office.

15027. (a) No licensee shall, directly or indirectly, act within this state as a public insurance adjuster without having first entered into a contract, in writing, on a form approved by the insurance commissioner and executed in duplicate by the public adjuster and the insured or a duly authorize representative. One copy of this contract shall be kept on file by the licensee, available at all times for inspection, without notice, by the commissioner or his or her duly authorized representative.

(b) No licensee shall solicit or attempt to solicit a client for employment during the progress of a loss-producing occurrence.

(c) No licensee shall solicit a client for employment between the hours of 6 p.m. and 8 a.m.

(d) No licensee shall use any form of contract other than that approved by the commissioner and which contains a provision allowing the client to rescind the contract by written notice to the licensee within 72 hours of signature and includes in _____ point type the statement: "WE REPRESENT THE INSURED ONLY."

(e) No licensee shall knowingly make any false report to his or her employer or 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 a client for whom the information is obtained.

(f) No licensee shall use a badge in connection with the official activities of the licensee's business.

(g) 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 to conduct business for which a license is required under this chapter.

15028. No person licensed as a public insurance adjuster shall do any of the following:

(a) Use any misrepresentation to solicit a contract or agreement to adjust a claim.

(b) Solicit or accept remuneration from, or have a financial interest in, any salvage, repair or other firm which obtains business in connection with any claim he or she has a contract or agreement to adjust.

(c) Advance moneys to any potential client or insured in order to obtain business.

(d) Offer to pay a fee, commission, or other valuable consideration, exceeding one hundred dollars ($100), to a person for referring a loss unless he or she employs that person to so act for him or her and that person is licensed to act as an adjuster under the provisions of this chapter.

15028.5. (a) A public insurance adjuster shall maintain a complete record of each of his or her transactions as a public insurance adjuster. The records shall include all of the following:

(1) The name of the insured.

(2) The date, location, and amount of the loss.

(3) A copy of the contract between the public insurance adjuster

and the insured.

(4) The name of the insurer and the amount, expiration date, and number of each policy carried with respect to the loss.

(5) An itemized statement of the recoveries by the insured from the sources known to the public insurance adjuster.

(6) The total compensation received for the adjustment.

(7) An itemized statement of disbursements made by the public insurance adjuster from recoveries received on behalf of the insured.

(b) Records shall be maintained for at least five years after the termination of the transaction with the insured, and shall be open to examination by the commissioner.

15028.6. All funds received as claim proceeds by any person acting as a public insurance adjuster are received and held by that person in his or her fiduciary capacity. Any person who diverts or appropriates any fiduciary funds for his or her own use is guilty of theft and punishable for theft as provided by law. Every applicant for a license to act as a public insurance adjuster shall, as part of the application, endorse an authorization for disclosure to the commissioner of all financial records of any fiduciary funds as defined in this section, pursuant to Section 7473 of the Government Code. The authorization shall continue in force and effect for so long as the licensee continues to be licensed by the department.

15029. No person shall concurrently hold a license under the provisions of this chapter and the provisions of Chapter 1 (commencing with Section 14000).

15030. Each licensee shall maintain a record containing that information relative to his or her employees as may be prescribed by the commissioner.

15031. 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 commissioner to do so.

The commissioner shall not authorize the use of a fictitious or other business name which is so similar to that of a public officer or agency of that used by another licensee that the public may be confused or mislead 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 of the Business and Professions Code.

A licensee desiring to conduct his or her business under more than one fictitious name shall obtain the authorization of the commissioner in a manner prescribed in this section for the use of such name.

The licensee shall pay a fee of ten dollars ($10) for each authorization to use an additional fictitious 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 that authorization.

15032. Every advertisement by a licensee soliciting or advertising business shall contain his or her name, address, or license number as they appear in the records of the commissioner. The commissioner may adopt regulations defining the term "advertisement" as used in this section.

Article 4. Bonds

15033. No license shall be issued under this chapter unless the applicant files with the commissioner a surety bond executed by a surety company authorized to do business in the state in the sum of five thousand dollars ($5,000) conditioned for the faithful and honest conduct of business by the applicant. The bond, as to its form, execution, and sufficiency of the surety shall be approved by the commissioner.

15034. The bond required by this chapter shall be taken in the name of the people in the state and every person injured by the willful, malicious, or wrongful act of the principal may bring an action on the bond in his or her name to recover damages suffered by reason of that willful, malicious, or wrongful act.

15035. Every licensee shall at all times maintain on file the surety bond required by this chapter in full force and effect and upon failure to do so the license of the licensee shall be forthwith suspended and shall not be reinstated until an application therefore, in the form prescribed by the commissioner, is filed together with a proper bond. The commissioner may deny the application notwithstanding the applicant's compliance with this section:

(a) For any reason which would justify a refusal to issue, or a suspension or revocation of, a license.

(b) For the performance of applicant of any practice while under suspension for failure to keep his or her bond in force, for which a license under this chapter is required.

15036. In lieu of the surety bond required by this chapter there may be deposited with the State of California the sum of five thousand dollars ($5,000) in cash, or evidence of deposit of the sum of five thousand dollars ($5,000) in banks authorized to do business in this state and insured by the Federal Deposit Insurance Corporation, or investment certificates or share accounts in the amount of five thousand dollars ($5,000) issued by a savings and loan association doing business in this state and insured by the Federal Savings and Loan Insurance Corporation, or evidence of a certificate of funds or share account of the sum of five thousand dollars ($5,000) in a credit union as defined in Section 14000 of the Financial Code whose share deposits are guaranteed by the National Credit Union Administration or guaranteed by any other agency approved by the Department of Corporations.

15037. Bonds executed and filed with the commissioner pursuant to this chapter shall remain in force and effect until the surety has terminated future liability by 30-day notice to the commissioner.

Article 5. Disciplinary Proceedings

15038. Except as otherwise required to comply with the provisions of Article 6 (commencing with Section 15044), the proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the commissioner shall have all the powers granted therein.

15039. The commissioner may suspend or revoke a license issued under this chapter if he or she determines that the licensee has done any of the following:

(a) Made any false statement or given any false information in connection with an application for a license or a renewal or reinstatement of the license.

(b) Violated any provision of this chapter.

(c) Violated any rule of the commissioner adopted pursuant to the authority contained in this chapter.

(d) Been convicted of any crime substantially related to the qualifications, functions, and duties of the holder of the registration or license in question.

(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 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.

(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 caper for any attorney.

(k) Committed any act which is a ground for denial of an application for license under this chapter.

(*l*) Manufactured evidence.

(m) 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 that client or former client.

15040. The record or conviction, or a certified copy thereof, shall be conclusive evidence of the conviction as that term is used in this article or Section 15018.

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 or Section 15018. The commissioner 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 that person to withdraw his or her plea of guilty and enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

15041. The commissioner shall suspend or revoke a license issued under this chapter if the commissioner determines that the licensee has:

(a) Used any letterhead, advertisement, or other printed matter, or in any matter 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 than that under which he or she is currently licensed in an advertisement, solicitation, or contract for business.

15042. The commissioner may suspend or revoke a license issued under this chapter if the commissioner determines that the licensee 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, any of the following:

(a) Knowingly making a false statement relating to evidence or information obtained in the course of employment, or knowingly publishing a slander or 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 that client or former client.

15043. The commissioner, in lieu of suspending or revoking a license issued under this chapter for violations of Sections 15039, 15041, and 15042, may impose a civil penalty not to exceed five hundred dollars ($500) upon a licensee, if the commissioner determines that such action better serves the purposes of this chapter.

Article 6. Nonresidents

15044. As used in this article, "presiding officer" means the Executive Officer of the Office of Administrative Hearings.

15045. The acceptance of a nonresident licensee of any of the rights and privileges conferred upon him or her by this chapter, as evidenced by his or her performance in this state, either personally or through an employee, of any act for which a licensee is required by this chapter, is equivalent to the appointment by that licensee of

the presiding officer as his or her true and lawful attorney upon who may be served all lawful process and any disciplinary proceedings conducted upon him or her under this chapter.

15046. The acceptance of such rights and privileges as evidenced by such act shall signify the agreement of the licensee that any such process which is served against him or her in the manner provided in this article shall be of the same legal force and validity as if serviced upon him or her personally in this state.

15047. Service shall be made by leaving a copy of the accusation, together with notice of defense and statement to respondent as described in Section 11505 of the Government Code, with a fee of five dollars ($5) for each licensee to be served, in the hands of the presiding officer or in his or her office in Sacramento. That service shall be sufficient service on the licensees subject to compliance with Section 15048.

15048. A notice of that service and a copy of the accusation, together with the notice of defense and statement to respondent shall forthwith be sent by registered mail by the presiding officer to the licensee at his or her last known address as furnished by the commissioner. Personal service of the notice, copy of the accusation, notice of defense, and statement to respondent upon the licensee whenever found outside this state shall be the equivalent to those mailings.

15049. Proof of compliance with Section 15048 shall be made in the event of service by mail by affidavit of the presiding officer or his or her authorized employee showing such service by mailing, together with the return receipt of the United States Post Office bearing the signature of the licensee or his or her agent. That affidavit or receipt shall be appended to the original accusation on file with the commissioner. In the event of personal service outside this state, such compliance may be proven by the return of any duly constituted public officer qualified to serve process in civil actions in the state or jurisdiction where the licensee is found, showing such service to have been made. Such return shall be appended to the original accusation on file with the commissioner.

15050. The commissioner, or if the proceeding is heard before a hearing officer of the Office of Administrative Hearings, the hearing officer, may order those postponements or continuances and grant those extensions of time as may be necessary to afford the licensee reasonable opportunity to defend the proceedings. In no event shall the licensee have less than 30 days after the date of service of accusation in which to file a notice of defense, nor shall the notice of hearings provided for in Section 11509 of the Government Code or the notice and copy of affidavit referred to in Section 11514 of the Government Code be mailed or delivered less than 20 days prior to the date of hearing, and the time for making a request to cross-examine under Section 11514 of the Government Code shall be not less than 15 days.

15051. The presiding officer shall keep a record of all process served upon him or her pursuant to this article, which records shall show the day and hour of service.

15052. As used in this article, "nonresident" means a person who is not a resident of this state at the time of the performance of the act referred to in Section 15045.

Article 7. Penal Provisions

15053. Any person who knowingly falsifies the fingerprints or photographs submitted under subdivision (f) of Section 15010 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 five hundred dollars ($500) or by imprisonment in the county jail not to exceed one year, or by both that fine and imprisonment.

Article 8. Expiration and Renewal of Licenses and Cards

15054. Every license, branch office certificate, and pocket card issued under this chapter shall expire on May 31 of each even-numbered year. 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 commissioner, and pay the renewal fee prescribed by this chapter. On renewal, such evidence of renewal of the license or certificate as the commissioner may prescribe, and renewal pocket cards for the persons mentioned in Section 15022 shall be issued to the licensee.

15055. Notwithstanding Section 15054, the commissioner may establish license periods and renewal dates for all licenses issued pursuant to this chapter so as to distribute the renewal work to permit the most efficient and economic use of personnel and equipment. In such cases, to the extent practical, provisions shall be made for the proration or other adjustment of fees so that no person shall be required to pay more than that which he or she would have been required to pay and no change in license period or renewal date shall be made.

15056. 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 the filing of an application for renewal on a form prescribed by the commissioner, and the payment of a 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 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 or certificate shall continue in effect through the date provided in Section 15044 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.

15057. 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 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 license activity at the location for which the certificate was issued, or to engage in any other activity or conduct in violation with an order or judgment by which certificate was suspended.

15058. A revoked license or branch officer 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 the 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.

15059. 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.

15060. The amount of fees prescribed by this chapter, unless otherwise fixed, is that fixed in the following schedule:

(a) The application fee for an original license 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 in the amount equal to the renewal fee in effect on the last regular renewal date before the date on which the license is issued, except that, if the license will expire less than one year after its issuance, then the fee is an amount equal to 50 percent of the renewal fee in effect on the last regular renewal date before the date on which the license is issued. The commissioner may, by appropriate regulation, provide for the waiver or refund of the original licensee 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 commissioner as follows: (1) for a license as a public insurance adjuster, not more than one hundred dollars ($100) (2) for a branch office certificate, not more than twenty dollars ($20).

(e) The application and license fee for applications prescribed by the commissioner, in addition to those in this chapter, and the application and license fee for a change in the type of business organization of the licensee, shall be in the amount prescribed by rule and regulation of the commissioner.

(f) The delinquency fee shall be 50 percent of the renewal fee in effect on the date of expiration, but not more than twenty-five dollars ($25).

(g) The fee for reexamination of an applicant is ten dollars ($10).

15061. The department shall receive and account for all moneys 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, to the credit of the Insurance Fund.

15062. Application or license fee shall not be refunded except in accordance with Section 158 of the Business and Professions Code.

SEC. 2. No reimbursement is required by this act pursuant to 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 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 1203

An act to add Sections 20018, 20019, and 20020 to the Vehicle Code, relating to vehicles.

[Approved by Governor September 28, 1985 Filed with Secretary of State September 29, 1985]

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

SECTION 1. Section 20018 is added to the Vehicle Code, to read:

20018. Every law enforcement agency having traffic law enforcement responsibility as specified in subdivision (a) of Section 830.1 and in subdivision (a) of Section 830.2 of the Penal Code shall develop, adopt, and implement a written policy for its officers to provide assistance to disabled motorists on highways within its primary jurisdiction. A copy of the policy shall be available to the public upon request.

SEC. 2. Section 20019 is added to the Vehicle Code, to read:

20019. The Department of the California Highway Patrol shall, on or before February 15, 1987, and annually thereafter, report to the Legislature on its experience under, and the effects of, Section 20018.

SEC. 3. Section 20020 is added to the Vehicle Code, to read:

20020. The Legislative Analyst shall, on or before February 15, 1987, and annually thereafter, report to the Legislature on the experiences of local law enforcement agencies under, and the effects of, Section 20018. Local law enforcement agencies shall cooperate with the Legislative Analyst in this regard.

SEC. 4. Reimbursement to local agencies and school districts for costs mandated by the state pursuant to this act shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code and, if the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), shall be made from the State Mandates Claims Fund.